

Re: STA, 3161(a)

From **John Robbenhaar** <John_Robbenhaar@fd.org>
To **mchannon** <mchannon@hushmail.com>
Cc **Marc Robert** <Marc_Robert@fd.org>
Sent Wednesday, September 23, 2015 at 8:29 AM
Encrypted No
Signed No

Matt, the research/writing lawyers are extremely busy, as they all have deadlines in the Tenth Circuit (in fact, 2 of my cases on appeal have briefs-in-chief due Monday!), so I haven't been able to get any outside opinions from them.

Regarding a trial court's sua sponte continuance as the subject of a STA motion, I located US v. Rushin, 642 F3d 1299 (10th 2011) which is a habeas/ineffective assistance case surrounding the trial lawyer's failure to file for dismissal under the STA:.

"Subsection (h)(7)(A) permits a district court, sua sponte or upon motion, to continue a trial setting and exclude the delay, provided the court, after considering at a minimum the factors set forth in subsections (h)(7)(B)(i), (ii), and (iv), places on the record "either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial."

United States v. Rushin, 642 F.3d 1299, 1302 (10th Cir. 2011).

In our case, it would appear Judge Herrera did NOT make the required (h)(7) findings in either of the sua sponte continuances. So there certainly appears to be a bona fide issue there. But is it an issue with legs? My opinion is that we are almost certain to lose a STA motion, on whatever grounds, in the district court.. And even if we were to win, the dismissal would almost certainly be without prejudice:

"Absent a showing of appreciable prejudice to the defendant, a district court generally should dismiss serious charges without prejudice under §



3162(a)(2) unless the delay is extended and attributable to “intentional dilatory conduct, or a pattern of neglect on the part of the Government.” United States v. Saltzman, 984 F.2d 1087, 1093 (10th Cir.1993); see United States v. Artez, 290 Fed.Appx. 203, 207 (10th Cir.2008) (unpublished) (opining that defendant's showing of “some prejudice from the delay ... was not sufficient to compel dismissal with prejudice”).

United States v. Rushin, 642 F3d at 1304. And US v. Tolutau, 2012 WL 28722 (D. Ut. 2012) (Not Reported) confirms that dismissal with prejudice is very rare.

I suspect there isn't much caselaw on 3161(a) as a sole basis for dismissal, but I haven't done the research. Whether the STA issue gains any traction in the Tenth is another story, but I'm never optimistic when it comes to appeals. I'm not sure what to advise here, but I'd suggest we revisit this issue when Marc is back in the office.

John

From: mchannon@hushmail.com
To: john_robbehaar@fd.org,
Date: 09/22/2015 09:28 AM
Subject: STA, 3161(a)

John,

Since Marc's unavailable until next week, I was hoping you'd be kind enough to leverage the FPD clerks to see if they can unearth any caselaw or precedents that indicate if my way of counting STA days has ever been tried (sua sponte continuances stop tolling EOJ continuances), and if so, if they succeeded.

Also, in a departure from Koerber, I'd like your opinion on 18 USC 3161(a)

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1/19/19, 7:24 AM

as a sole basis for a motion to dismiss with prejudice. We've had no trial setting for 76 days and counting, despite calls or at least reminders from both sides. It'd be interesting to know if it's a toothless bromide of a statute since it's got no corresponding sanction in 3162 or if it can count as just as important as 3161(c).

Appreciate it.

Thanks!
Matt Channon

- OfficeMax Financial Schedule 2011 with cartridge count and recycling payments from Clover from January 2011 through June 2011 with all non-responsive and confidential information redacted (Bates Stamped 008)
- 2011 Business Liability Accrual Report for 2011 Recycling Rewards (Bates Stamped 009)
- 2011 Clover VI (Vendor Income) Breakdown for 2011 recycling payments from Clover with all non-responsive and confidential information redacted (Bates Stamped 010-011)
- Summary of profits for remanufactured products purchased from Clover (Clover Store POS Sales 08/25/2009 – 06/08/2011) (Bates Stamped 012-013)

Office Depot does not represent that the documents produced comprise the entire universe of available documents that may exist; rather, this collection is the entirety of the information that Office Depot was able to gather after expending significant man-hours over a two week period by more than twenty Office Depot employees. As part of its search efforts Office Depot engaged multiple “legacy OfficeMax” employees² in Office Depot’s efforts to determine where certain data, if available, would be located. Office Depot also contacted numerous former employees with respect to the possible location of additional financial information for the MaxPerks ink recycling program.

Pre-merger OfficeMax data is located in archived, antiquated data management systems. Office Depot cannot easily retrieve additional data without knowing how responsive files and/or financial and accounting information was coded, named, labeled or otherwise identified or where within the system or financial records the information may be stored. Office Depot was not in control of OfficeMax during the time period referenced in the subpoena and, despite its best

² A legacy OfficeMax employee is a current Office Depot employee that was employed by OfficeMax before the merger in 2013.



efforts to obtain the necessary knowledge, does not have direct knowledge as to how and precisely where additional information is stored.

Office Depot enlisted a team³ of accountants, attorneys, and IT professionals to comb through archived data. Without knowing how the OfficeMax accountants and records custodians organized and labeled the data in 2009 through 2011, however, it is simply not possible to locate additional responsive data.

Respectfully submitted,

BUTT THORNTON & BAEHR PC

/s/Phillip W. Cheves

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³ Office Depot estimates that it has incurred thousands of dollars in employee man-hours attempting to comply with Defendants' subpoena.

FILED
 UNITED STATES DISTRICT COURT
 DISTRICT OF NEW MEXICO
 2013 AUG 28 PM 4:15
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IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

Cr. No. 13-966 JCH

MATTHEW CHANNON and BRANDI
 CHANNON,)

Defendants.)

SCHEDULING ORDER

On June 27, 2013, the Court granted the Defendants' joint motion to declare this case complex (Doc. 28) and ordered the parties to submit a proposed scheduling order. Having received the parties' proposed schedule, and noting that no party has an objection to the proposed schedule, the Court ORDERS that the remaining discovery and pre-trial submissions shall be filed and the trial shall begin according to the following schedule proposed by the parties:

August 26, 2013	Government to disclose any remaining Rule 16 discovery and <i>Brady</i> materials
October 14, 2013	Government notice of intent to offer evidence pursuant to Fed. R. Evid. 404(b) and 609(b)
October 28, 2013	Defendants to provide all reciprocal discovery under Rule 16(b)
	Parties to file pretrial motions under Rule 12(b)(3)

**BRANDI CHANNON'S
 EXHIBIT**

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November 4, 2013	Government disclosure of expert witnesses and reports
November 11, 2013	Responses to pretrial motions
November 18, 2013	Defendants' objections to government's experts
November 25, 2013	Replies to pretrial motions
December 2, 2013	Defendants' disclosure of expert witnesses and reports
December 16, 2013	Motions in limine
December 30, 2013	Responses to motions in limine
January 6, 2014	Jury instructions
	Exhibit lists
	Witness lists and <i>Jencks</i> disclosures
January 10, 2014	Replies to motions in limine
January 13, 2014	Government objections to defense experts
	Voir dire
	Deadline to file objections to Jury instructions, exhibit lists, witness lists
January 21, 2014	Jury selection and trial

The parties understand that the trial date listed above is contingent upon the Court's calendar. Should the Court need to set trial on a different date, the parties may propose corresponding alterations to the above schedule.

The Court will schedule any necessary pretrial hearings by separate notice.

IT IS FURTHER ORDERED that the parties have a continuing duty to disclose any additional witness material and evidence if discovered, and that if good cause exists for not complying with the above-designed schedule the Court be so advised.

Entered this 28 day of August, 2013.


JUDITH C. HERRERA
United States District Judge

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MATTHEW CHANNON and
BRANDI CHANNON,

Defendant.

Cr. No. 13-966 JCH

**MOTION FOR A FIRM TRIAL SETTING, OR IN THE ALTERNATIVE TO BE
PLACED ON A TRAILING DOCKET**

The United States respectfully moves the Court for a firm trial setting in the matter of *United States v. Channon*, or, in the alternative, to be placed on one of the Court's upcoming trailing dockets. Because of the complexity of coordinating travel for witnesses from several states, the United States would prefer a firm trial setting if possible but understands that the schedules of the Court, counsel, and necessary witnesses may require the matter to be placed on a trailing docket.

The United States has attached to this motion a calendar showing the availability and unavailability of the necessary witnesses or counsel for the United States during the months of August, September, and October. Dates marked with an "x" represent dates of previously-scheduled personal travel of a necessary witness or counsel. Dates marked with a straight line indicate that a necessary witness is scheduled to be at training or a professional conference; the United States hopes that trial will not interfere with the commitments of these witnesses, but if these dates are otherwise the best dates available, then trial would take precedence. The United States is willing to provide more detail of the reasons for unavailability of witnesses or counsel upon request if the Court desires, but counsel hesitates to put additional details of an individual's

BRANDI CHANNON'S
EXHIBIT

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travel in a publicly filed document. The United States further requests that trial not be scheduled later than October because lead counsel for the United States is expecting a baby and has been medically advised to avoid firm commitments after November 1, 2015.

Respectfully submitted,

DAMON P. MARTINEZ
United States Attorney

/s
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I hereby certify that a copy of this
pleading was delivered via CM/ECF
to counsel for Defendants.
filed electronically
C. Paige Messec

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 13-CR-966 JCH

MATTHEW CHANNON and
BRANDI CHANNON,

Defendants.

DEFENDANTS' JOINT MOTION TO COMPEL DISCOVERY

COMES NOW defendant Matthew Channon, through the Law Office of Amy Sirignano, P.C., (Amy Sirignano, Esq. and Kevin L. Nault, Esq.), and Brandi Channon, by and through counsel of record, Todd B. Hotchkiss of Frechette & Associates, jointly and respectfully move this Court to compel the government to produce the specifically requested material identified below pursuant to Fed. R. Crim. P. 16, the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419, 433 (1995); *Smith v. Sec'y of N.M. Dep't. of Corr.*, 50 F.3d 801 (1995); *Banks v. Dretke*, 540 U.S. 668, 698–99 (2004); and *Cone v. Bell*, 556 U.S. 449, 470 n. 15 (2009). The basis for this motion is as follows.

I. BACKGROUND

1. Mr. Matthew Channon is charged in an eleven-count Indictment filed March 27, 2013, with ten counts of wire fraud contrary to 18 U.S.C. §§ 1343 and 2, and

**BRANDI CHANNON'S
EXHIBIT**

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conspiracy to commit wire fraud contrary to 18 U.S.C. § 1349 (Doc. 2). His wife, Brandi Channon is charged only in counts 7-11 (Doc. 2).

2. Mr. and Mrs. Channon were arraigned on April 12, 2013 at which time they pleaded not guilty as to all counts (Docs. 9, 10). Both Mr. and Mrs. Channon requested appointment of counsel and the court denied this request [no entry on docket]. On May 23, 2013 Chief Magistrate Judge Karen B. Molzen granted the Channons' pro se motion to reconsider appointment of counsel. (Doc. 22). On May 24, 2013, Attorney Amy Sirignano was appointed as CJA counsel for Mr. Channon and Attorney Todd B. Hotchkiss was appointed as CJA counsel for Mrs. Channon (Docs. 23 and 24). On July 22, 2013, the Court appointed Attorney Kevin Nault as CJA counsel for the defendant Mr. Channon (Doc. 39).

3. The Channons were released from custody pursuant to orders setting conditions of release. They both are out of custody (Docs. 12, 13).

4. Trial in this matter is currently set for May 19, 2014 (Doc. 45). Thus far, the government has disclosed to appointed counsel for Mr. Channon and Mrs. Channon over 2500 Bates-numbered pages of discovery (some items are voluminous spreadsheets labeled with a single Bates number, making the actual number of pages difficult to estimate), and approximately three hundred and sixty six (366) photos related to this case.

5. The government has not produced any admissible evidence i.e., records or documents that tie Mr. and Mrs. Channon to the creation of the relevant Google email accounts and MaxPerk accounts as alleged in the indictment. (Doc. 2); *See* Exhibit A (defense index of discovery). Specifically for: teechur12345678@gmail.com basis for count 1; OfficeMax MaxPerks account created with the email address of teech.u.r.1.2345.6.78@gmail.com basis for count 2; coach12345678@gmail.com basis for count 3; OfficeMax MaxPerks account created with the email address of co.a.ch.1.2.3.4.56.78@gmail.com basis for count 4; bargle12345678@gmail.com basis for count 5; OfficeMax MaxPerks account created with the email address of b.a.r.g.l.e.12.34.56.78@gmail.com basis for count 6; sandeepshwawar@gmail.com basis for count 7; OfficeMax MaxPerks account created with the email address of sandeepshwawar@gmail.com basis for count 8; ameriodespatch@gmail.com basis for count 9; and OfficeMax MaxPerks account created with the email address of a.m.eriodespatch@gmail.com basis for count 9.

6. Also not included in the discovery were original copies or duplicates receipts of each alleged fraudulent in-store purchase or transaction or "each extrapolated receipt" and/or a original copy or duplicate of receipt for each recycled cartridge transaction alleged as fraudulent by the government in the introduction and scheme or artifice sections of the indictment (Doc. 2); *See* Exhibits B & C.

7. The government also has not produced an Encase computer report (or similar computer forensic report/analysis) regarding the images of the two seized computer hard drives still remaining in FBI custody, though the defense has made repeated requests. Defense counsel requested the FBI's forensic analysis of each computer seized and the search warrant return of the computers. The government responded by providing insufficient "summaries" of the forensic analysis rather than providing the complete analysis. The defense needs to determine whether any data on the computers supports the government's criminal allegations, and whether any exculpatory or mitigating evidence also exists. *See* Exhibits D & E.

8. The government asserts that the computer images themselves and unspecified logs, without verification or inspection of the computers from which the images were made, are self-verifying. Exhibit E. Upon information and belief, the parity information generally contained in computer forensic images verifies that the individual blocks¹ have not been altered since the image was created, but they do *not* verify that the image is an accurate copy of the original data. More significantly, and also upon information and belief, forensic computer imaging software is not frequently used for creating forensic computer images by professionals working in the field of computer forensics because there are devices that create the images much more quickly.

¹ A block is a term for an arbitrarily-sized section of data. *See, e.g.*, Merriam-Webster Online Dictionary, *Block* (8), <http://www.merriam-webster.com/dictionary/block> (last accessed Jan. 28, 2014).

See, e.g., Berryhill Computer Forensics, *Voom Hardcopy II*,

<http://www.computerforensics.com/voom.html> (last accessed January 28, 2014)

(discussing speed testing of imaging devices). Finally, and also upon information and belief, because Apple Macintosh computers are often constructed such that the hard drives are difficult to reach, professionals in the field of computer forensics often image Macintosh computers differently, for instance, relying on boot disks rather than removing the hard drive and using write-blocking cables. Cf. iFixit, *iMac Intel 21.5" EMC 2544 Teardown*, <http://www.ifixit.com/Teardown/iMac+Intel+21.5-Inch+EMC+2544+Teardown/11936/> (last accessed Jan. 28, 2014) (requiring heat gun to soften adhesive in Step 4).

9. Without knowing what device was used to create the computer images, the settings selected and pre-set in the imaging device, and how complete the image created was (e.g., whether unallocated space was imaged or not), the defense cannot be sure of the accuracy and completeness of the government's computer images without creating their own images from the original computers for comparison.

10. As of this date, two computers remain in the custody of the FBI. The two computers are: Mac Mini A 1103 (Inventory no. 1B31) and Mac Mini A 1179 (Inventory no. 1B37). These two devices have been characterized by the prosecutor as "relevant" to the government's case, and the government apparently believes that they contain significant evidence against both Mr. Channon and Mrs. Channon. Defense counsel has

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requested access to the originals and images of the computer evidence on numerous occasions. The government has been unwilling to provide the defense with access to the view or image the computer evidence. Defense counsel requested access to this relevant evidence in writing on August 14, 2013 and again October 2, 2013 (Exhibits B, D). The government responded on August 20, 2013 and October 24, 2013. *See* Exhibits C, E.

11. The government desires the defense to provide them a hard drive (at CJA expense) and stipulate to the copy of evidence on the mirror imaged hard drives, sight unseen. In addition, the FBI refuses to certify that its own copies of the computer match the original seized computer evidence. The defense has no information that the seizure and copy of the hard drives were done properly or accurately and thus, at this point cannot stipulate to the accuracy of the evidence. The evidence on these computers is integral to Mr. Channon and Mrs. Channon's defense. Defense counsel requests access to the data so that their expert may determine whether the government's copies/images are accurate. *See* Exhibits F and G.

12. As an example, the government requested and served a search warrant for the contents of thirteen (13) e-mail addresses, but only alleges that five (5) of those addresses are attributable to Mr. Channon. *Compare, In the Matter of Google, Inc.*, No. 11-MR-172 (D.N.M. 2011) *with* Doc. 2. Based on the fact that Mr. Channon was charged in relation to only four of the thirteen e-mail addresses searched, it appears that other

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persons not charged in the Indictment (Doc. 2) may have also been involved in allegedly breaching OfficeMax policies as the government charged in this case.

13. Defense counsel has thus far encountered great difficulty scheduling sufficient time with the FBI and the government to review evidence in this case, and the defense anticipates similar difficulty to schedule several hours for creating computer hard drive images by the defense computer expert. Defense counsel and the defense investigator (Doc. 38) attempted to schedule a time to view the approximately four dozen numbered items of evidence seized during execution of the search warrant on Mr. Channon's residence, several of which contain multiple pieces of physical evidence (e.g., item number 1 is "travel documents itinerary, Staples, OfficeMax Cards, docs"). The FBI scheduled only two hours to view the evidence, when counsel was expecting the majority of a work day. Follow-up meetings were attempted by both parties; yet defense counsel has been unable to schedule a subsequent appointment due to FBI case agent unavailability and defense scheduling conflicts. The government attempted to rectify the situation by providing copies of *some* documents taken from the Channons' home during the search warrant, but the entire collection of documents was not provided on the disk labeled and produced on October 24, 2013. *See* Exhibit E.

14. Counsel reviewed the discovery produced by the government, and identified the following categories of discovery that the government either did not respond to, or are allegedly not in the custody of the government:

1. All receipts (including, but not limited to "electronic journal receipts" *see* Bates 1144), records, backup documents, screen captures of receipts, profile(s), Max Perks profile detail, accurate reprinted copies of each transaction, record(s) of transactions for each alleged purchase/sale/transaction/"qualified purchase" at each Office Max store that the government alleges is related to Mr. Channon, identified in the countless spreadsheets provided by the government in the discovery relevant to Mr. Channon (*See* Bates numbers 1420-1424, 1374).
2. Copies of all register receipts, electronic journal receipt, or internal Office Max or MaxPerk document(s) for any and all recycled ink accounts that the government alleges is related to Mr. Channon. The following Bates numbers are not complete: Bates 1315a and 1315i (missing photos), 1521, and 1526.
3. Any and all documents to ascertain what the government refers to as a "qualified purchase" (*See* Bates 1367).
4. Any and all receipts, including, but not limited to, "electronic journal receipts," records, backup documents, screen captures of receipts, profile(s), Max Perks profile detail, accurate reprinted copies of each transaction, record(s) of transactions for each alleged purchase/sale/transaction/"qualified purchase" at each Office Max store identifying the dollar amounts for both loss and restitution claimed in the discovery and the plea agreement dated September 24, 2013.
5. Any government offset or reduction in the loss calculation as determined in the discovery or the plea agreement dated September 24, 2013.
6. Copies of missing pages initially disclosed as Bates: 1346 and 1556.
7. Clear, legible copies of Bates numbers 1339 and 1620.
8. Complete and unredacted copies of Bates numbers 206-208, 215-217, and 621-623, which are blank or redacted.
11. Copies of all documentation supporting the forfeiture allegation, including, but not limited to, any and all bank statements and reports of money tracing and forensic accounting analysis performed by the government.

12. Copies of all subpoenas issued by the Grand Jury during its investigation of this case and the alleged conduct set forth in the indictment.
13. Copies of all CDs, pictures and descriptions of physical items, and hard copies of documents produced in response to all subpoenas issued by the Grand Jury during its investigation of this case and the underlying alleged conduct (*See* Bates 0548).
14. Copy of all the Grand Jury transcripts relating to the present indictment.
15. Copies of any and all e-mails and other correspondence including, but not limited to intra-office correspondence, text messages, and voicemails from the pre-indictment investigative period to the present between any FBI employee working on the instant case and Steven Gardner, Chuck Sipko, and any and all employees or consultant of OfficeMax that relates to the activities charged in this case.
16. Copies of any and all e-mails and other correspondence including, but not limited to intra-office correspondence, text messages and voicemails from the pre-indictment investigative period to the present between any FBI employee working on the instant case and any employee of Blackhawk, including, but not limited to Chanel Rabb, EBay, Google, and Ceridian (*See* Bates 1956, 1286).
17. Any and all surveillance video from OfficeMax stores of the ink cartridge recycling transactions related to 123 MaxPerks accounts (*See* Bates 1335).
18. A copy of the recording of OfficeMax loss prevention personnel made of the interview of Matt Channon referenced in Bates 1335.
19. A copy of Mr. Chuck Sipko's report regarding the interview of Matt Channon (*See* Bates 1335).
20. Any and all reports of interviews with Mr. Channon and documents identifying Mr. Channon (*See* Bates 1328 – the actual Bates number is missing).
21. The "Intellix" software program required to view video footage disclosed by OfficeMax (Bates 1379).
22. A copy of all Maxperks program policies, terms and conditions from inception to the present, including the date of enactment of the policy and the date of each policy change (*See* Bates 1381).

23. A copy of all MaxPerks qualifying ink cartridge lists, and revisions dating from its inception to the present.
24. Any and all statements, records, documents, and confirmation of activity for each gift card issued by Ceridian relevant to this investigation and indictment alleged to have been issued or sold to Mr. or Mrs. Channon, identified by card number and store, and all activity on each gift card (*See* Bates 1145).
25. Any and all statements, records, documents, and confirmation of activity for each gift card issued by Blackhawk relevant to this investigation and indictment, alleged to have been issued or sold to Mr. or Mrs. Channon, identified by card number and store, and all activity on each gift card (*See* Bates 1384).
26. Any and all Office Max policies regarding purchase and sale of gift cards, including but not limited to the specific policy regarding gift card fees.
28. Copies of all FBI 1A envelopes and their contents.
29. Copies of all FBI chains of custody for each piece of evidence seized by law enforcement in this case.
30. Copies of all documents and records obtained by law enforcement during the search warrant of Mr. Channon's residence and any other search warrant executed in conjunction with this case.
31. A copy of the government's Encase (or similar computer forensic report/analysis) for each computer or electronic device/medium seized by the government in this case.
34. Any and all documents and records of relevant MaxPerk account signups including the IP addresses the requests were made from, dates, and times.
35. Any and all documents and records of relevant MaxPerk receipt adjustments including the IP addresses the requests were made from, dates, and times.
36. Any and all documents and records of relevant MaxPerks logins including the IP addresses the requests were made from, dates, and times.
37. A companywide financial summary of OfficeMax's ink cartridge program for redemption of ink and toner cartridges accepted, number

- of used ink cartridges sold; and median, mean, and maximum retail prices of refilled ink cartridges sold, detailed by the makes and models OfficeMax accepted for redemption, from the date of the initiation of this investigation to the present.
38. A companywide financial disclosure of the MaxPerks program from 2009 to the present, including, but not limited to, the amount of qualifying transactions, number and dollar amount assigned to rewards card numbers, number and dollar amount of rewards points issued, number and dollar amount of rewards points redeemed, with each category broken down by rebates from ink cartridge recycling and rebates from qualifying purchases.
 39. Any and all records and documents identifying the date and time each MaxPerks account alleged to be related to Mr. Channon was shut down, the balance of at the time of shut down, the person who shut it down, and the cited reason for the account closure from the date of the initiation of this investigation to the present.
 40. Defense expert access to all of the data on the two computers still in the custody of the FBI, the Mac Mini A 1103 (1B31) and Mac Mini A 1179 (1B37).
 41. Copies of the missing pages Bates: 43-44; 153-202; 478-482; 1338; 1369-1370; 1630-1633; 1638-1683; and 2166-2532.
 42. Any and all records of Mr. Channon and Mrs. Channon's credit card and debit card transaction records relating to Office Depot and Staples.

See Exhibits D, F.

The aforementioned discovery is necessary to the defense for both Mr. Channon and Mrs. Channon and the filing of this motion has become necessary since the government has failed to comply with Defense Counsel's written discovery requests. The Court set deadlines to disclose witness lists, *Giglio* materials, and experts/reports pursuant to *Daubert* that have not yet passed (Doc. 45). Without waiving their rights to

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those materials, Mr. and Mrs. Channon do not request that the Court further order the government to produce those materials at this time.

Lastly, the defense requested that contact information including addresses, telephone numbers, and computer account information not be redacted from the discovery in order to permit the defense to conduct its investigation. The defense is willing to review these documents at the U.S. Attorney's Office to prevent further unnecessary dissemination of identifying information.

II. ARGUMENT

On April 12, 2013, the Court entered a standing discovery Order in Mr. Channon's case which is applicable to all criminal cases in the District of New Mexico (Doc. 11). The discovery Orders track Fed. R. Crim. P. 16(a)(1)(C), and provides:

The government shall permit the defendant to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the government, and which are material to the preparation of the defendant's defense or are intended for use by the government as evidence in chief at the trial, or were obtained from or belong to the defendant.

According to the terms of the standing discovery Order, this information is to be provided automatically to the defense, without the necessity of a formal request. As stated above, the government has initially produced thousands of pages of discovery relating to this case. Despite the government's production of some items, many still

remain missing, or the government has refused to comply with defense discovery requests.

The information requested herein is material to the Channons' defense.

Materiality, for the purposes of Rule 16, is not a heavy burden. *See, e.g., United States v. Jackson*, 850 F. Supp. 1481, 1503 (D. Kan. 1994) (allegation that evidence existed that would show bias was sufficient for *Brady* and Rule 16 materiality). Under Rule 16, "evidence is material as long as there is a strong indication that it will play an important role in uncovering material evidence, aiding witness preparation, corroborating testimony, or assisting impeachment or rebuttal." *United States v. Caro*, 597 F.3d 608, 621 (4th Cir. 2010). Due Process requires the production of documents that are "material either to guilt or to punishment." *Brady v. Maryland*, 373 U.S. 83, 87 (1963). This includes the production of impeachment evidence. *Giglio v. U.S.*, 405 U.S. 150, 154-55 (1972); *United States v. Torres*, 569 F.3d 1277 (10th Cir. 2009).

Federal Rule of Criminal Procedure 16(a)(1)(E) requires the government to provide Mr. Channon and Mrs. Channon any document or object within the government's possession, custody, or control that "is material to preparing the defense." "Where doubt exists as to the usefulness of the evidence to the defendant, the government must resolve all such doubts in favor of full disclosure." *United States v. Safavian*, 233 F.R.D. 12, 16, 17 (D.D.C. 2005); *see also Jencks*, 353 U.S. 657, 668-69 ("only the defense is adequately equipped to determine the effective use for purpose of

discrediting the [g]overnment's witness and thereby furthering the accused's defense"); *People v. Rosario*, 173 N.E.2d 881, 883, 9 N.Y.2d 286, 290 (N.Y. 1961) ("[O]missions, contrasts and even contradictions, vital perhaps, for discrediting a witness, are certainly not as apparent to the impartial presiding judge as to single-minded counsel for the accused; the latter is in a far better position to appraise the value of a witness' pretrial statements for impeachment purposes.").

Further, defense counsel has a right to material exculpatory information under Rule 16, the Fifth and Sixth Amendments to the United States Constitution, *Brady*, *Kyles*, *Smith*, *Banks*, and *Cone*. *Brady* held that "the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or punishment, irrespective of the good faith or bad faith of the prosecution." *Brady v. Maryland*, 373 U.S. at 87. The Court observed: "Society wins not only when the guilty are convicted but when criminal trials are fair; our system or the administration of justice suffers when any accused is treated unfairly." *Id.* More recently, in *Kyles v. Whitley*, the Court re-affirmed that information that discredits, undermines, or impeaches the government's evidence or the way it was obtained is exculpatory and material information: "[w]hen, for example, the probative force of evidence depends on the circumstances in which it was obtained and those circumstances raise a possibility of fraud, indications of conscientious police work will enhance probative force and slovenly work will diminish it." *Kyles v. Whitley*, 514 U.S.

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at 446, n. 15. Any information relevant to also show “integrity of the investigation” or a conclusion within the investigation is likewise *Brady* material. *Id.* at 447.

Also, the prosecution has a duty to disclose information even if it is inadmissible at trial. *State v. Potts*, 334 N.C. 575, 433 S.E.2d 736 (1993) (evidence need not be admissible if it would lead to admissible favorable evidence); *Maynard v. Dixon*, 943 F.2d 407 (4th Cir. 1991) (evidence must be disclosed if it would assist the defendant in discovering other evidence or preparing for trial). The prosecution must provide a criminal defendant “the widest possible opportunity to inspect and receive such materials in the possession of the government as may aid him in presenting his side of the case.” *United States v. Poindexter*, 727 F. Supp. 1470, 1473 (D.D.C. 1989). Evidence is material if there is indication that it may play an “important role in uncovering admissible evidence, aiding witness preparation, corroborating testimony, or assisting impeachment or rebuttal.” *United States v. George*, 786 F. Supp. 11, 13 (D.D.C. 1991).

Here, the requested evidence is relevant and necessary in preparing for Mr. Channon and Mrs. Channon’s defense. The government has even acknowledged the relevancy of the information on the two computers that remain in the FBI’s custody yet refuse to allow the Defense’s expert access to them. The government has not produced any records or documents tying Mr. and Mrs. Channon to the relevant OfficeMax accounts or emails as alleged in counts 1 through 9 of the Indictment. (Doc.2). The government has a duty to provide the requested documents to Mr. Channon and Mrs.

Channon and thus should be ordered to comply with Defense counsel's discovery requests.

III. GOVERNMENT'S POSITION

Due to the nature of the motion, the government's position was not sought. The defense presumes the government opposes.

IV. CONCLUSION

Therefore, and for the foregoing reasons, Mr. Channon and Mrs. Channon respectfully request the Court order the government to respond to the above-listed discovery requests, and further order the government to produce unredacted copies of all materials produced to the defense for inspection.

Respectfully Submitted,

/s

Amy Sirignano, Esq.
Kevin L. Nault, Esq.
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Counsel for Matthew Channon

/s

Todd B. Hotchkiss
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505-842-8560 facsimile
fbhotchkiss@frechettelaw.com

Counsel for Brandi Channon

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via the Court's CM/ECF system to counsel for the government on this 28th day of January, 2014.

/s
Amy Sirignano, Esq.

MOTION TO COMPEL

A. Legal Standard

Rule 16 of the Federal Rules of Criminal Procedure governs the discovery and inspection in this case. Rule 16(a)(E) requires the government to provide Mr. Channon any document or object within the government's possession, custody, or control that "is material to preparing the defense." Fed. R. Crim. P. 16(a)(1)(E). Rule 16 "is intended to prescribe the minimum amount of discovery to which the parties are entitled, and leaves intact a court's discretion to grant or deny the broader discovery requests of a criminal defendant." *United States v. Richards*, 659 F.3d 527, 543 (6th Cir. 2011). Due Process requires the production of documents that are "material either to guilt or to punishment." *Brady v. Maryland*, 373 U.S. 87, 87 (1963). This includes the production of impeachment evidence. *Giglio v. U.S.*, 405 U.S. 150, 154-55 (1972); *United States v. Torres*, 569 F.3d 1277 (10th Cir. 2009).

B. Argument and Authority

The government apparently intends to introduce a summary of Mr. Channon's Office Max transaction history at trial. It has produced these summary spreadsheets to Mr. Channon but has refused to produce any records supporting the transactions including backup documents, or screen captures of receipts for each of Mr. Channon's

alleged purchases, sales, transaction, or “qualified purchases” at Office Max stores.

Exhibit 2. The government has the duty to prove beyond a reasonable doubt that the alleged transactions happened. *In Re Winship*, 397 US 358, 362 (1963). However, the government has not provided the defense with competent evidence that these transaction actually occurred. Exhibits 1, at 3-4, and 2, at 2. These requested receipts may contain information necessary to Mr. Channon’s defense or potentially exculpatory information.

In *United States v. Kilroy*, as in the case at bar, the government intended to use a summary of the requested documents as evidence at trial. *Kilroy*, 523 F.Supp 206, 214-15 (E.D. Wis. 1981). The court in *Kilroy*, summarized the defendant’s position in his motion to compel as follows:

The defendant . . . states that the Government intends to present its case in part through the use of summary evidence and takes the position that the defendant’s bank records not involving Standard Oil are not relevant to this case. Finally, the defendant contends that all of his bank records should be available so that the jury can be presented with a complete financial picture, that he does not himself have copies of the records, and that the Government should obtain the copies for him.

Id. Mr. Channon’s position in this case is stronger than then defendant’s position in *Kilroy*. In *Kilroy* the defendant was requesting his own bank records. *Id.* Here, Mr. Channon is not requesting his personal records, but the records of a third party, Office Max, which provided material information to the government. In *Kilroy*, the court

ordered the government to provide the defendant with all of the defendant's financial records that were considered when compiling the summary introduced into evidence. *Id.* at 216. In this case, Mr. Channon is requesting the government be compelled to produce those Office Max receipts and records, which Mr. Channon has no access to, which the government and Office Max relied upon when creating the summary spreadsheets and those that the government intends to rely upon at trial. Exhibits 1, at 3-4, and 2, at 2. The government has a duty to provide the requested documents to Mr. Channon. *Kilroy*, at 216; *People v. McDonald*, 15P.3d 788, 791 (2000) ("it is a condition precedent to the admissibility of summaries of voluminous records that the original or copies be made available for examination by the other party at a reasonable time and place"); *United States v. Gorel*, 622 F.2d 100, 106 (5th Cir. 1979) (the Federal Rules of Evidence permit admission of summaries of recordings when the original or copies of the originals are made available to the other party); *In re Shelley Furniture, Inc.*, 283 F.2d 540, 543 (7th Cir. 1960) (the entire mass of the records themselves need not be admitted in evidence, where the records are available and can be made accessible to the opposing party for inspection).

The requested receipts are critical to the government's case in chief, and as such are material to Mr. Channon's defense, potentially exculpatory, and may be used by the Mr. Channon for impeachment at trial. Under Rule 16, "evidence is material as long as there is a strong indication that it will play an important role in uncovering

material evidence, aiding witness preparation, corroborating testimony, or assisting impeachment or rebuttal.” *United States v. Caro*, 597 F.3d 608, 621 (4th Cir. 2010). Here, the receipts are material because the government cannot obtain a conviction without the Office Max receipts. 18 U.S.C. §§ 1343, 2, 1349.

The transaction records or receipts are potentially exculpatory. *Brady* requires the production of documents that are exculpatory, meaning that are material either to guilt or to punishment.” *Brady v. Maryland*, 373 U.S. (1963). It is the government’s “duty to learn of any favorable evidence known to the others acting on the government’s behalf in this case.” *Kyles v. Whitley*, 514 U.S. 419, 438 (1995). Here, the government claims that the original receipts do not exist and if they existed were in the possession of a third party, namely Office Max (Doc. 2, at 2). The government has a duty to obtain from Office Max the original or copies of the original business records which Office Max used in its production of the summaries. *McDonald*, 15 P.3d 788, 789-90 (2000). Without the proper foundation for the summaries, Mr. Channon will not have an “adequate opportunity to challenge the accuracy of the summaries and to cross-examine the witness who presented the evidence.” *Id.* at 791.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 13-CR-966-1 JCH

MATTHEW CHANNON,

Defendant.

MOTION TO WITHDRAW AS COUNSEL

COMES NOW, Amy Sirignano, Esq., of the Law Office of Amy Sirignano, PC, appointed counsel for Mr. Channon, and respectfully moves to withdraw as counsel of record in the above-captioned case. The basis for this motion is as follows.

Effective May 1, 2014, Ms. Sirignano is closing her law practice and moving out of the State of New Mexico. Mr. Nault has accepted a position with the Eighth Judicial District Attorney's Office, and will be unable to continue representing Mr. Channon.

WHEREFORE, because Ms. Sirignano will no longer be practicing law, she respectfully requests that she be permitted to withdraw as counsel, and that other counsel be appointed for Mr. Channon.

BRANDI CHANNON'S
EXHIBIT

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Respectfully Submitted,

/s

Amy Sirignano, Esq.
Law Office of Amy Sirignano, PC
20 First Plaza NW, Suite 310
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(505) 242-2770
(505) 242-2774 facsimile
amy@abqnlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via the Court's CM/ECF system to AUSA Paige Messic counsel for the government, on this 11th day of April, 2014.

/s

Amy Sirignano, Esq.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

Clerk's Minutes

Before the Honorable Kirtan Khalsa

CASE No: 13cr966 JCH/KK

DATE: 10/9/2014

COURTROOM CLERK: E. Hernandez

COURT REPORTER: Liberty-Pecos

COURT IN SESSION: 9:32-9:58

TOTAL TIME: 26 minutes

TYPE OF PROCEEDING: Status Conference

ATTORNEYS PRESENT FOR PLAINTIFF(S):

Jonathon Gerson

ATTORNEYS PRESENT FOR DEFENDANT(S):

Marc Robert for Matthew Channon

Todd Hotchkiss for Brandi Channon

PROCEEDINGS:

- 9:32 Court in Session; Court calls case
- 9:32 Counsel enter their appearances
- 9:32 Defense counsel Robert addresses court regarding status of motion; suggests evidentiary hearing be held
- 9:33 Court responds
- 9:40 Defense counsel Robert agrees a meet and confer is necessary
- 9:42 Defense counsel Hotchkiss does not have anything to add
- 9:43 Government addresses court
- 9:51 Court; parties are to meet and confer by Monday, October 13, 2014 and send a letter to chambers by Tuesday, October 14, 2014
- 9:53 Defense counsel Robert and Hotchkiss are available
- 9:54 Court to set evidentiary hearing for next week
- 9:58 Court in recess



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**FEDERAL PUBLIC DEFENDER
DISTRICT OF NEW MEXICO**

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October 15, 2014

Hon. Kirtan K. Khalsa
United States Magistrate Judge
333 Lomas Blvd NW
Albuquerque, New Mexico 87102

**Re: United States v. Matthew Channon, et al.
Cause Number CR 13-966 JH**

Dear Judge Khalsa:

As directed, counsel for all parties met on Tuesday, October 14, 2014 to attempt to resolve or define the remaining issues presented in the discovery motion [Doc. 57] filed on January 28, 2014 by Mr. Channon's previous counsel. We believe that we have addressed or resolved all of the issues raised in the motion, and that an evidentiary hearing will not be necessary.

I have provided the government with a blank hard drive of sufficient capacity to receive mirror-image copies of the hard drives of the Channons' computers which remain in government custody. We anticipate receiving the copies shortly, resolving that issue.

We have scheduled an on-site evidence view for Monday, October 20, 2014.

At our meeting on Monday, we went down the list of the discovery issues raised in the motion, item by item, and determined that there does not appear to be a need to litigate any of those issues further.

Counsel for the government and for Ms. Channon have reviewed this letter and have approved its transmittal in this form. Please let us know if there will continue to be a need for hearing as scheduled for this Friday. Thank you very much for your assistance in resolving these issues.

Sincerely,

Marc H. Robert
Assistant Federal Public Defender
Albuquerque Office

MHR:mg

c: AUSA Paige Messec
Todd Hotchkiss

**BRANDI CHANNON'S
EXHIBIT**

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

MATTHEW CHANNON and
BRANDI CHANNON,

Defendants.

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§
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Cause No. CR 13-966 JH

NOTICE OF WITHDRAWAL OF MOTION TO COMPEL DISCOVERY

MATTHEW CHANNON, Defendant, by and through the undersigned appointed counsel, Marc H. Robert, Assistant Federal Public Defender, hereby notifies the Court and all parties of the withdrawal of the Defendants' joint motion to compel discovery [Doc. 57]. The parties met and conferred, and resolved all of the pending issues raised in the motion. The undersigned counsel has conferred with Todd Hotchkiss, counsel for co-defendant Brandi Channon, who joined in the original motion, and he concurs with this Notice.

Respectfully Submitted,

FEDERAL PUBLIC DEFENDER
111 Lomas Blvd NW, Suite 501
Albuquerque, New Mexico 87102
(505) 346-2489
Fax (505) 346-2494

filed electronically on November 20, 2014

MARC H. ROBERT
Assistant Federal Public Defender
marc_robert@fd.org

Counsel for Mr. Channon



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Withdrawal of Motion to Compel Discovery was served on Assistant United States Attorney Paige Messec, P.O. Box 607, Albuquerque, New Mexico 87103; and on Todd B. Hotchkiss, 610 Gold Avenue SW, Suite 228, Albuquerque, New Mexico 87102, through the operation of the CM/ECF electronic filing system and pursuant to the CM/ECF Administrative Procedures Manual §§ 1(a), 7(b)(2), on November 20, 2014.

Filed electronically on November 20, 2014
MARC H. ROBERT

L:\Robert\channon\pleadings\notice of withdrawal of motion to compel discovery.wpd

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CR 13-966 JCH

MATTHEW CHANNON,

Defendant.

**MR. CHANNON'S MOTION FOR RULE 17(c) SUBPOENA TO THE
CUSTODIAN OF RECORDS FOR OFFICE DEPOT/OFFICE MAX**

MATTHEW CHANNON, Defendant, by and through the undersigned appointed counsel, Assistant Federal Public Defenders Marc H. Robert and John F. Robbenhaar, respectfully moves this Court, pursuant to Rule 17(c) of the Federal Rules of Criminal Procedure, to order the issuance of a Rule 17(c) subpoena to the Custodian of Records for Office Depot¹. Mr. Channon requests that the Court order Office Depot, successor in interest to Office Max, to deliver to the counsel, the following:

- a. Financial records prepared and kept by Office Max (or its successor in interest) with regard to the various ink and toner cartridge recycling programs operated during the time period encompassed by the second superseding indictment, August 25, 2009 through June 8, 2011².
- b. Documents reflecting the identity of all third party contractors used by Office Max during the time period encompassed by the indictment in connection with the various aspects of its ink and toner cartridge recycling programs.

¹ Office Max was consolidated with Office Depot subsequent to the events giving rise to this prosecution. It is presumed that the request for documentation made herein will need to be presented to the successor organization, Office Depot. As a result, Mr. Channon requests the issuance of a subpoena to Office Depot seeking the relevant records regarding Office Max.

² Reference to the time period encompassed by the indictment(s) herein means the time from August 25, 2009 through June 8, 2011.



- c. Documentation of all financial transactions among Office Max and its contractors regarding the ink and toner cartridge recycling programs for transactions relating to those programs and during the time period encompassed by the indictment.
- d. Financial records reflecting costs and revenues relating to the acquisition, restoration and sale of ink and/or toner cartridges which are recycled using the recycling machines located in the various Office Max stores during the time period relevant to the indictment.

In support of his motion, Mr. Channon would respectfully show the Court as follows:

1. Matthew Channon is pending sentencing on convictions after trial of conspiracy and wire fraud. The Pre-Sentence Report recommends a 46-57 month Guideline imprisonment range. Pre-Sentence Investigation Report ("PSR"), ¶ 89. That imprisonment range was derived after application of loss calculations, per U.S.S.G. § 2B1.1, finding "an intended loss of more than \$250,000". PSR, ¶ 43. The PSR concludes that restitution is due and owing to Office Depot in the amount of \$105,191. PSR, ¶ 102.

2. The charges arose from an investigation by Office Max personnel into irregular activity among customer loyalty reward accounts created and held in fictitious names. It was discovered that thousands of user accounts had been created, each in one of four email sequences, in order to earn store credits towards future Office Max purchases. Store credits would be earned by either crediting purchases to an individual customer loyalty program account, or by recycling printer ink and toner cartridges for additional reward points. It is claimed that, even though Office Max would sell the empty ink and toner cartridges to third party retailers, who would fill them for resale, "on average" Office Max lost money on each ink cartridge recycled. PSR, ¶ 9. Steve Gardner, the Office Max/Office Depot employee who testified for the government at trial, admitted that some recycled ink and toner cartridges would be refurbished and sold directly by OfficeMax,

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8 for here.

9 The -- the -- so I heard Mr. Hotchkiss talk
10 about there's no contract between OfficeMax and
11 Clover. But by the same token, there's certainly no
12 agreement between the Channons and OfficeMax that
13 together they have this joint venture that they would
14 bring in inkjet cartridges and they would -- they
15 would somehow have a stake in the ultimate sale of
16 inkjet cartridges by OfficeMax.

17 The problem for me is that the Channons,
18 along with whoever else in the world who brought
19 empty inkjet cartridges to OfficeMax, the transaction
20 between the Channons and OfficeMax was nothing more
21 than we're selling you our used inkjet cartridges.
22 That's the end of the story. They got the \$3
23 benefit, the \$3 gift card rewards benefit, and that
24 was the end of it. Nothing more was expected of them
25 by OfficeMax, and that was really the end of the

50

1 story.

2 So then OfficeMax takes these inkjet
3 cartridges and sells whichever ones are usable to
4 Clover, but that has nothing to do with the Channons.
5 Clover then remanufactures them and
6 OfficeMax purchases however many they purchase from
7 Clover, and then they sell them

8 None of what occurred between the time the
9 Channons sold these inkjet -- used inkjet cartridges
10 to OfficeMax to -- nothing else that they did
11 benefited OfficeMax.

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BRANDI CHANNON'S
EXHIBIT

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12 So -- so somebody else took these
13 cartridges and did whatever they needed to do to make
14 them usable. I heard some testimony that -- that
15 it's not just a matter of filling them up with ink
16 and putting them out on the shelf. What I heard was
17 that it was more complicated than that.

18 There could be pieces from cartridges that
19 are used or salvaged or usable or not usable.

20 The point being that there is a lot of work
21 that goes from receiving these empty cartridges to
22 putting them back on the shelf.

23 And I didn't hear any evidence that it was
24 a seamless transaction. In other words, that the
25 Channons had no reason to expect that the inkjet

51

1 cartridges that they sold to OfficeMax would ever be
2 sold again by OfficeMax.

3 There's just no way for me to say that the
4 Channons would have had any reasonable expectation
5 that the product that they were selling would be then
6 sold again by OfficeMax.

7 One of you mentioned a Walmart example,
8 that Walmart buys products, and if that were the end
9 of the story, then Walmart would never have any
10 profit because all they did was lose money by buying
11 products that they sold.

12 The difference -- well, one of the
13 differences is that whatever product they buy, it's
14 presumably ready to be sold. There's no additional

1 two ways that a customer could earn rewards.

2 You will hear that the first way is that a
3 customer could spend money to earn rewards. And
4 these rewards, they're -- essentially, it's like a
5 gift card. It's like money that can only be spent at
6 OfficeMax. And so if a customer went in and they
7 spent a certain amount of money, then they would
8 start to earn a specific amount of rewards, and then
9 they could use those rewards to buy almost anything
10 at OfficeMax.

11 Now, the second way that a customer could
12 earn rewards was to take in empty ink cartridges for
13 recycling.

14 And this -- this is what I'm talking about
15 here, one of these.

16 A customer, a loyalty customer, a MaxPerks
17 customer, would bring one of these into OfficeMax and
18 turn it in, and in exchange, the evidence will show
19 you, that they would get \$3 worth of rewards for
20 recycling one of these.

21 Now you're going to hear that the MaxPerks
22 programs, they had limits. And so there were limits
23 on the number of rewards that could be accumulated
24 for buying stuff at OfficeMax.

25 And you're going to hear that there were

PAUL BACA, OFFICIAL COURT REPORTER

BRANDI CHANNON'S
EXHIBIT

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Empty Inkjet Cartridge Buyback List

Page 1

January 2008

Virgin

* Please send a minimum of 30 inkjet and cell phones per shipping label.

<u>Dell</u>	<u>Price</u>
7Y743	\$ 0.75
7Y745	\$ 1.00
T0529 / A920	\$ 2.00
T0530 / A920	\$ 2.50
N5878	\$ 0.50
N5882	\$ 0.50
T0601 / J740	\$ 0.50
T0602 / J740	\$ 0.50
M4640	\$ 3.00
M4646	\$ 3.00
JF333 Series 6	\$ 1.00
J4844	\$ 1.00
J5566	\$ 2.00
J5567	\$ 2.00
Series 7 DH828/29	\$ 1.00
Series 8 MJ264	\$ 1.00
Series 9 MK991/92/93	\$ 1.00
Series 10	\$ 1.00
Series 11	\$ 1.00
<u>Canon</u>	<u>Price</u>
BCI-3 Black and Color	\$ 0.25
BCI-6 Black and Color	\$ 0.25
PGI-5	\$ 0.25
CLI-8	\$ 0.25
BC-01	\$ 1.00
BC-02	\$ 1.00
BC-05	\$ 1.25
BC-20	\$ 0.25
BX-3	\$ 1.50
PG-30	\$ 1.50
CL-31	\$ 1.50
PG-40	\$ 3.00
CL-41	\$ 3.00
PG-50	\$ 3.00
CL-51	\$ 3.00
CL-52	\$ 5.00

<u>HP</u>	<u>Price</u>
CB335W (74)	\$ 1.50
CB336W (74 XL)	\$ 2.00
CB337W (75)	\$ 2.00
CB338W (75 XL)	\$ 2.00
6656 (56)	\$ 0.25
6657 (57)	\$ 2.00
6658 (58)	\$ 0.10
8727 (27)	\$ 0.25
8728 (28)	\$ 2.50
9362 (92)	\$ 0.35
9361 (93)	\$ 0.50
8765 (94)	\$ 0.25
8766 (95)	\$ 0.25
8767 (96)	\$ 0.25
9363 (97)	\$ 0.25
9364 (98)	\$ 0.50
9369 (99)	\$ 0.25
9368 (100)	\$ 0.25
9351 (21)	\$ 0.75
9352 (22)	\$ 2.00
6578 (78)	\$ 1.00
6614 (20)	\$ 0.50
6615 (15)	\$ 0.15
6625 (17)	\$ 0.50
1823D (23)	\$ 0.50
51626A (26)	\$ 0.50
51629A (29)	\$ 0.10
51640 (40)	\$ 0.25
51645A (45)	\$ 0.15
C8721 (02)	\$ 0.15
C8771-75 (02)	\$ 0.15
<u>Sharp</u>	<u>Price</u>
Sharp UX-C70	\$ 1.00

<u>Lexmark</u>	<u>Price</u>
17G0050 (50)	\$ 1.00
17G0060 (60)	\$ 0.50
15M0120 / 125 (20/25)	\$ 0.50
12A1970 / 75 (70/75)	\$ 1.00
12A1980 / 85 (80/85)	\$ 0.50
12A1990 / 95 (90/95)	\$ 0.25
10N0016 (N16)	\$ 1.50
10N0026 (N26)	\$ 2.00
10N0017 (N17)	\$ 1.50
10N0027 (N27)	\$ 1.50
18C1428 (28)	\$ 1.00
18C1429 (29)	\$ 2.00
18L0032 (82)	\$ 1.00
18L0042 (83)	\$ 2.00
18L0000 (88)	\$ 1.00
Lexmark 1	\$ 1.00
Lexmark 2	\$ 1.00
18C1623 (23)	\$ 1.00
18C1524 (24)	\$ 1.00
18C0031 (31)	\$ 1.00
18C0032 (32)	\$ 1.00
18C0033 (33)	\$ 1.00
18C0034 (34)	\$ 1.50
18C0035 (35)	\$ 1.50
18Y0141 / 341 (41)	\$ 1.00
18Y0142 / 342 (42)	\$ 1.00
18Y0143 (43)	\$ 1.00
18Y0144 (44)	\$ 1.00
13400 HC	\$ 0.10
<u>Xerox</u>	<u>Price</u>
8R7880	\$ 0.25
8R7881	\$ 0.25
8R12591	\$ 0.25

* Virgin = Never refilled or tampered with, OEM empty cartridges

Sunset Recycling, LLC

1333 Christy Ave. * Louisville, KY 40204

Phone: 502.639-2524 * E-mail: info@SunsetRecycling.com * www.SunsetRecycling.com

BRANDI CHANNON'S
EXHIBIT

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Empty Inkjet Cartridge Buyback List

Page 2

December 2007

Non-Virgin

* Please send a minimum of 30 inkjet and cell phones per shipping label.

NV Dell	Price	NV HP	Price	NV Lexmark	Price
7Y743	\$ 0.05	CB335W (74)	\$ 0.25	17G0050 (50)	\$ 0.05
7Y745	\$ 0.25	CB336W (74 XL)	\$ 0.25	17G0060 (60)	\$ 0.05
T0529 / A920	\$ 0.05	CB337W (75)	\$ 0.25	15M0120 / 125 (20/25)	\$ 0.05
T0530 / A920	\$ 0.25	CB338W (75 XL)	\$ 0.25	12A1970 / 75 (70/75)	\$ 0.05
N5878	\$ -	6656 (56)	\$ 0.05	12A1980 / 85 (80/85)	\$ 0.05
N5882	\$ -	6657 (57)	\$ 0.25	12A1990 / 95 (90/95)	\$ -
T0601 / J740	\$ 0.25	6658 (58)	\$ -	10N0016 (N16)	\$ 0.05
T0602 / J740	\$ 0.25	8727 (27)	\$ 0.05	10N0026 (N26)	\$ 0.25
M4640	\$ 0.50	8728 (28)	\$ 0.25	10N0017 (N17)	\$ 0.05
M4646	\$ 0.50	9362 (92)	\$ 0.05	10N0027 (N27)	\$ 0.05
JF333 Series 6	\$ 0.25	9361 (93)	\$ 0.10	18C1428 (28)	\$ 0.25
J4844	\$ 0.25	8765 (94)	\$ 0.05	18C1429 (29)	\$ 0.25
J5566	\$ 0.25	8766 (95)	\$ 0.10	18L0032 (82)	\$ 0.05
J5567	\$ 0.25	8767 (96)	\$ 0.05	18L0042 (83)	\$ 0.25
Series 7 DH828/29	\$ 0.25	9363 (97)	\$ 0.10	18L0000 (88)	\$ 0.05
Series 8 MJ264	\$ 0.25	9364 (98)	\$ 0.25	Lexmark 1	\$ 0.25
Series 9 MK991/92/93	\$ 0.25	9369 (99)	\$ 0.05	Lexmark 2	\$ 0.25
Series 10	\$ 0.25	9351 (21)	\$ 0.25	18C1623 (23)	\$ 0.25
Series 11	\$ 0.25	9352 (22)	\$ 0.50	18C1524 (24)	\$ 0.25
NV Canon	Price	6578 (78)	\$ -	18C0031 (31)	\$ 0.25
BCI-3 Black and Color	\$ -	6614 (20)	\$ 0.25	18C0032 (32)	\$ 0.25
BCI-6 Black and Color	\$ -	6615 (15)	\$ -	18C0033 (33)	\$ 0.25
PGI-5	\$ -	6625 (17)	\$ -	18C0034 (34)	\$ 0.25
CLI-8	\$ -	1823D (23)	\$ -	18C0035 (35)	\$ 0.25
BC-01	\$ -	51626A (26)	\$ -	18Y0141 / 341 (41)	\$ 0.25
BC-02	\$ -	51629A (29)	\$ -	18Y0142 / 342 (42)	\$ 0.25
BC-05	\$ 0.25	51640 (40)	\$ -	18Y0143	\$ 0.25
BC-20	\$ -	51645A (45)	\$ -	18Y0144	\$ 0.25
BX-3	\$ -	C8721 (02)	\$ -	13400 HC	\$ -
PG-30	\$ 0.25	C8771-75 (02)	\$ -	NV Xerox	Price
CL-31	\$ 0.25	NV Sharp	Price	8R7880	\$ -
PG-40	\$ 0.50	Sharp UX-C70	\$ 0.25	8R7881	\$ -
CL-41	\$ 0.50			8R12591	\$ -
PG-50	\$ 0.50				
CL-51	\$ 0.50				
CL-52	\$ 0.50				

* Virgin = Never refilled or tampered with, OEM empty cartridge.

Sunset Recycling, LLC

1333 Christy Ave. * Louisville, KY 40204

Phone: 502.639-2524 * E-mail: info@SunsetRecycling.com * www.SunsetRecycling.com

Steven Gardner - Direct by Ms. Vierbuchen

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1 need a better printer, right, something that's going
2 to be a little more economical. Think of buying 20
3 inkjet cartridges every month for your printing
4 needs, how much money that would cost you. You'd
5 probably want to find a more effective way.

6 What we realized, though, was there were
7 people out there that would go and they'd buy empty
8 inkjet cartridges on websites like eBay or
9 Craigslist, and they'd buy them for much, much
10 cheaper, sometimes 30, 33 cents a cartridge, and then
11 they would bring them to us, and we're giving them \$3
12 for the cartridge. And we're actually winding up
13 behind, losing money on the deal, is probably the
14 best way to put it.

15 One of the --

16 Q. Mr. Gardner, could you wait just for one second
17 for us?

18 A. Sure.

19 (Discussion off the record.)

20 BY MS. VIERBUCHEN:

21 Q. You know, there was a lot of information there,
22 and I'm sorry. I think I lost some of it.

23 And I think I started off because I
24 misspoke. I think it's three -- \$3 per cartridge,
25 not \$3 per month?

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Michael Boady - Direct by Ms. Kastrin

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1 A. She was.

2 Q. And is that why you were there?

3 A. Yes.

4 Q. Okay. Did Ms. Channon tell you that she had
5 created fictitious reward accounts through retailer
6 websites, including OfficeMax, Staples, and Office
7 Depot?

8 A. She did.

9 Q. Okay. And did she tell you that she had
10 created these fictitious reward accounts because of
11 the limitations that one account could do for
12 recycling?

13 A. She did.

14 Q. And so she created extra accounts to be able to
15 recycle more ink?

16 A. Yes.

17 Q. And did Ms. Channon tell you that she would
18 purchase the used ink online, or get it from a guy in
19 Arizona?

20 A. She did.

21 Q. And did she tell you she could get it usually
22 from anywhere between 10 to 60 cents?

23 A. Yes.

24 Q. And then did she tell you that she could get \$3
25 for that same ink at OfficeMax?

PAUL BACA, OFFICIAL COURT REPORTER

**BRANDI CHANNON'S
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Subject: Re: Redirected lot of 416 Inks
From: Convenient Video
Date: 5/4/2010 6:39 PM
To: warren@jmwgreen.com

Warren,

I'm relieved you're keeping some aside just for me.
I'm still planning on coming on the 19th (and the 2 boxes don't need to ship until the 19th).

Since there's a "bing cashback outage" going on, I'll let you know when I'm ready to buy.

Thanks!
Matt

On Tue, May 4, 2010 at 6:03 PM, Warren Tsang <warren@jmwgreen.com> wrote:

Hi Matt,

~~I have more that I didn't list on Ebay. I was afraid that if I listed everything at once they would be purchased by other people before you had a chance.~~

I can list the remaining lots whenever you're ready. But, I thought you were planning to come by on the 19th? Is that still your plan? If it is, then I can list the other lots closer to the date you're planning to come by to pick up.

Thanks,

Warren Tsang,
Crystal Max
JMW Green
warren@jmwgreen.com
PH: 909-930-6188
FX: 909-930-6288
Mobile: 951-283-1888

-----Original Message-----

From: Convenient Video [mailto:cvid.us@gmail.com]
Sent: Tuesday, May 04, 2010 4:56 PM
To: warren@jmwgreen.com
Subject: Re: Redirected lot of 416 Inks

Warren,

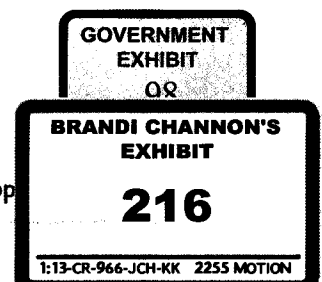
I'm just about ready to place my order with you. Looks like as of now you only have 6 lots of the 416 available, so I was wondering if I should wait until you have a solid 7 to bid. (Wasn't sure if breaking it into two purchases would ruin the shipping agreement we had).

Cheers,
Matt

On Thu, Apr 29, 2010 at 3:42 PM, Warren Tsang <warren@jmwgreen.com> wrote:

Hi Matt,

Looks like we were both a bit confused on how this was going to work. What you just prop



I can work with that. For the shipping cost going to Pleasanton it will only cost \$15.99, I can refund some of the shipping cost back to you for the boxes that you end up picking up.

Thanks,

Warren Tsang,
Crystal Max
JMW Green
warren@jmwgreen.com
PH: 909-930-6188
FX: 909-930-6288
Mobile: 951-283-1888

-----Original Message-----

From: Convenient Video [mailto:cvid.us@gmail.com]
Sent: Thursday, April 29, 2010 2:31 PM
To: warren@jmwgreen.com
Subject: Re: Redirected lot of 416 Inks

Warren,

I do want to pick up the cartons, just not pay with cash.

I don't need particularly discounted pricing this first time out; my main concern is just availability and pickup-ability. In the future all-cash may be an option.

I understand the reluctance to get hit with ebay/paypal/credit card/shipping fees.

The only reason I mentioned shipping as an option was to satisfy your 2-box-ship minimum-Ebay-Paypal condition.

If you still want to go that route, the ship-to address for 2 boxes would be:

Matt Channon
2025 Santa Rita Road
Pleasanton, CA 94566

So how about we try the following?:

I buy 7 boxes from you on eBay at regular price (\$139.99), incl. regular shipping (\$19.99).
You ship 2 of the boxes to the address above to satisfy eBay/Paypal.
I pick up 5 1/2 boxes from you on the afternoon of May 19th.

How does all this sound?
Matt

On Tue, Apr 27, 2010 at 9:32 PM, Warren Tsang <warren@jmwgreen.com> wrote:

Hi Matt,

I thought you were going to pick up most of the cartons, and pay with cash. If I'm going to ship everything, it might be better if you just purchase everything off Ebay at the regular prices plus shipping, and I ship them. It's really not worth it for me to sell to you for less and then have to ship them. I lose out on the shipping cost and the fees in the end, especially if you're going to pay with credit card instead of cash. There are still fees involved with a credit card.

Let me know where you want the boxes shipped and I'll check on the UPS shipping cost.

Thanks,

Warren

-----Original Message-----

From: Convenient Video [mailto:cvid.us@gmail.com]

Sent: Tuesday, April 27, 2010 5:20 PM

To: warren@jmwgreen.com

Subject: Re: Redirected lot of 416 Inks

Warren,

I think we can work a deal here; my main concern with the shipping is I'll be flying into LA and not too keen on checking boxes of ink that originated there in the first place. I can probably provide a local-ish address for you to ship to if that's essential to the deal.

eBay gift cards are involved, yes.

So, would this work as follows?

*I buy 5 lots of 416 inks at the eBay price of \$139.99 + \$10S&H, providing you with an address to ship 2 of them to, total cost of \$749.95.

*I show up, pay \$250 for another 2 1/2 boxes of cartridges via credit card.

Let me know how this sounds.

Thanks!

Matt

On Tue, Apr 27, 2010 at 3:38 PM, Warren Tsang <warren@jmwgreen.com> wrote:

Hi Matt,

I apologize for the late reply. Bigger and Bigger customers are always welcome.

That may work, but I will have to ship at least 2 boxes to complete the Ebay transaction. I'm assuming you're going to use an Ebay Gift Card, or something similar, to pay for the stuff you buy on Ebay?

You can decide how many boxes you want to pick up, as well as how many extra you want to pay cash/credit card for when you come to pick up the balance. As long as I can show that I shipped something to you, Ebay/Paypal will be satisfied.

3200 cartridges would make slightly over 7.5 boxes. If I ship 2 boxes, you can come by to pick, up the other 5 1/2 boxes. I can put shipping charges at \$10/box and you can pick up extra cartridges to make up the difference. Will that

work for you?

Thanks,

Warren

Warren Tsang,
Crystal Max
JMW Green
warren@jmwgreen.com
PH: 909-930-6188
FX: 909-930-6288
Mobile: 951-283-1888

-----Original Message-----

From: Convenient Video [mailto:cvid.us@gmail.com]
Sent: Sunday, April 25, 2010 3:46 PM
To: warren@jmwgreen.com
Subject: Re: Redirected lot of 416 Inks

Warren,

Thanks for the prompt reply.

Plans have changed a bit; am now looking at wanting to do a pickup on May 19th.
Am also wanting to get approx. 3200 cartridges (7-8 boxes of 416).

I don't think supply will be a problem, but is there some way we could make this work through eBay? I'd ordinarily prefer to deal in cash/credit card as well to save you the fees, but in this particular instance it's my only way to make the deal work on my end. Perhaps I could buy a smaller number of boxes, pay the shipping, and we'd be agreed that you'd throw an extra box or two on when we pick up?

Let me know what you think; am trying to be a bigger and bigger customer as the months go by.

Cheers,
Matt

On Fri, Apr 23, 2010 at 2:18 PM, Warren Tsang
<warren@jmwgreen.com> wrote:

Hi Matt,

Nice hearing from you. Sure, I can have 5 boxes of the Virgin/Non-virgin HP ink cartridges ready for you to pick up on May 5-6. But, I don't want to have to go through Ebay/Paypal for this. I've had some problems with them whenever people pickup the cartridges instead of me shipping to them.

Is it possible for you to pay me cash, or credit card, when you come to pick up? This will help me to avoid some problems I've run into in the past.

Thanks,

Warren

Warren Tsang,
Crystal Max
JMW Green
warren@jmwgreen.com
PH: 909-930-6188
FX: 909-930-6288
Mobile: 951-283-1888

-----Original Message-----

From: Convenient Video [mailto:cvid.us@gmail.com]

Sent: Friday, April 23, 2010 1:12 PM

To: warren@jmwgreen.com

Subject: Re: Redirected lot of 416 Inks

Warren,

I have the potential to be in your area on May 5-6, and was wondering if you could make available to me (5) boxes of your 416 HP ink cartridges for direct pickup 5/5-5/6 in a special eBay buy-it-now deal.

Thanks!
Matt

E-mail message checked by Spyware Doctor (7.0.0.514)
Database version: 6.14850
<http://www.pctools.com/spyware-doctor-antivirus/>

E-mail message checked by Spyware Doctor (7.0.0.514)
Database version: 6.14890

<http://www.pctools.com/spyware-doctor-antivirus/>

E-mail message checked by Spyware Doctor (7.0.0.514)
Database version: 6.14920

<http://www.pctools.com/spyware-doctor-antivirus/>

1 MR. ROBERT: Yes, Your Honor.

2 THE COURT: All right. Go ahead.

3 MS. MESSEC: Would you like us to go first,
4 Your Honor?

5 THE COURT: I would.

6 MS. MESSEC: Okay.

7 MR. ROBERT: Excuse me, Your Honor. I'm
8 not sure who the gentleman in the back of the
9 courtroom is. I think if there are witnesses -- this
10 is Ms. McHard. She will be our witness.

11 I would invoke the rule.

12 MR. BACA: I'm Sam Baca, a CPA. I've been
13 engaged by the US Attorney's Office.

14 THE COURT: All right. So an expert?

15 MR. BACA: Yes.

16 MR. ROBERT: That's news to us.

17 THE COURT: Well --

18 MS. MESSEC: He's not testifying today.

19 MR. ROBERT: Is he going to testify in the
20 future?

21 MS. MESSEC: Well, that may depend on the
22 outcome of this hearing.

23 But we're not required to notice up
24 rebuttal witnesses.

25 MR. ROBERT: In any event, I will invoke

Paul Baca, Official Court Reporter

**BRANDI CHANNON'S
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1 the rule and ask that anybody who may testify today
2 or in the future be excluded from the courtroom.

3 THE COURT: And you're applying that to a
4 potential expert witness?

5 MR. ROBERT: Yes, Your Honor.

6 MS. MESSEC: Your Honor, I don't think the
7 rule applies to a Daubert hearing like this,
8 especially when an expert is allowed to listen to the
9 testimony of the other expert.

10 It's certainly something -- he would be
11 allowed to read the transcript later, and I don't see
12 any reason why he can't sit in the courtroom and
13 consult with us in any matters that may come up.

14 THE COURT: I think -- well, is there
15 anything further, Mr. Robert?

16 MR. ROBERT: No, Your Honor.

17 THE COURT: I'll allow the expert to remain
18 in the courtroom. Generally speaking, on issues such
19 as these, I -- experts are allowed to observe the
20 testimony of other expert witnesses, so I'll overrule
21 the objection for today's purposes.

22 MS. MESSEC: Your Honor, before we get
23 started with the witnesses, I would like to just
24 clarify what I believe is still at stake today.

25 We are not pressing the timing issues of

1 Nandukumar -- Kumar.

2 And this was one of those days, Your Honor,
3 where I mentioned to the Court we may have to
4 interrupt testimony. We'll try to find a good spot
5 to do that, but there were many witnesses who only
6 could testify later in the week, and so we will try
7 to make it as seamless as possible, if the Court will
8 permit us to interrupt the testimony.

9 THE COURT: And I generally try to
10 accommodate schedules. So...

11 MR. ROBERT: In that regard, Your Honor, we
12 have a problem that we didn't anticipate until things
13 got pushed back. But Ms. McHard is going to be out
14 of the country starting on the 25th, which is a week
15 from Monday.

16 MR. ROBBENHAAR: The 23rd. I'm sorry. She
17 has to be...

18 THE COURT: Well, the 23rd is a Saturday,
19 right?

20 MR. ROBBENHAAR: That's when she's leaving,
21 so she's here through the 22nd, if I'm not mistaken.
22 I can doublecheck that, but that's my understanding.

23 THE COURT: Okay.

24 MR. ROBERT: Obviously, we don't know where
25 things are going to be at that time. Maybe we don't

1 have a problem and we could put her right on. If we
2 do have a problem we're going to have to take it up.

3 We've discussed it with the government.
4 They're thinking about what they're -- how they're
5 going to react to it if it happens.

6 THE COURT: All right. Well, we'll see
7 where we are at that point.

8 Anything else?

9 MS. KASTRIN: No, Your Honor.

10 THE COURT: All right. Have a nice
11 evening.

12 We're in recess.

13 (Proceedings concluded at 4:57 p.m.)
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Steven Gardner - Further Redirect by Ms. Vierbuchen

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1 Now, the third parties present at the
2 scene. Again, I do think that that goes to a general
3 explanation of the circumstances surrounding the
4 search and -- and could be relevant to why the FBI
5 agents handle things in a particular manner.

6 So it is -- again, that's something that
7 the Court will permit.

8 And then the motions -- renewed motions to
9 sever.

10 The Court will deny the motions to sever
11 for the reasons previously stated.

12 Now the request to lead, I'm very sensitive
13 to not getting into issues that would become Bruton
14 issues. And so I'm willing to see how it goes. I'll
15 give you some leeway.

16 If there's a problem, I'm happy to address
17 it at the bench. But at least for purposes of trying
18 to keep things focused and narrow, I'm willing to at
19 least begin with leading. And if there is -- if a
20 problem develops we can take it up.

21 So we'll proceed in that manner.

22 MR. ROBERT: Your Honor, there is one other
23 thing, if I might mention it briefly.

24 THE COURT: Okay.

25 MR. ROBERT: During a bench conference, if

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1 I miss -- unless I misunderstood, it was -- you said
2 that Ms. McHard wasn't going to be allowed to testify
3 about anything that wasn't introduced into evidence.

4 If that's so, of course, she's going to
5 talk about the work that she did with the
6 spreadsheets that are the basis of all the
7 Government's summary exhibits.

8 If it's the Court's ruling that she's not
9 going to be allowed to testify about the work that
10 she did with the spreadsheet that is the basis for
11 all the government's summary exhibits, then that
12 sounds to me like exclusion. And I guess I need to
13 let her know if that's going to be the Court's
14 ruling.

15 THE COURT: Any comment before I tell you
16 what I'm thinking on this?

17 MS. KASTRIN: I understood the Court's
18 prior ruling with the Daubert hearing to be that she
19 could not testify as to anything that was not relied
20 on in creating pieces of evidence.

21 And so that would include, like, the hidden
22 tabs. It would include the summary chart that we
23 explicitly told defense counsel and the Court through
24 the filings that was on the all account details tab
25 of it.

Steven Gardner - Further Redirect by Ms. Vierbuchen

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1 But my understanding of it was -- I did not
2 hear the Court's ruling to go so far as unless the
3 actual item was not in evidence that she couldn't
4 opine on it, but she couldn't opine on things that
5 were not relied on in creating evidence in this case
6 because it simply wouldn't be relevant.

7 THE COURT: All right. Anything else?

8 MR. ROBERT: If Ms. McHard is going to be
9 allowed to talk about the original or enhanced
10 spreadsheets, those things that are included in that
11 spreadsheet necessarily should be allowed for her as
12 a subject for her testimony, including the hidden
13 worksheets.

14 The government obviously would like that
15 not to be presented to the jury. But in fact, it was
16 a part of the spreadsheet that was used by the
17 government to create all the summary exhibits.

18 Whether or not they say that they relied on
19 it I think is irrelevant, and she should be allowed
20 to talk about it.

21 MR. HOTCHKISS: All right.

22 MS. KASTRIN: If I may briefly, Your Honor.

23 THE COURT: Very briefly. And then we need
24 to take a break. We'll probably be late with the
25 jury, so please be brief.

Steven Gardner - Further Redirect by Ms. Vierbuchen

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1 MS. KASTRIN: I'm just -- I'm quoting from
2 the Court's Daubert order, which is Docket
3 Number 262.

4 "Testimony on evidence not presented would,
5 of course, be irrelevant and inadmissible. The Court
6 assumes, however, that by the time McHard's testimony
7 is presented at trial it will have become clear on
8 which evidence the government is using. The Court
9 will limit McHard's trial testimony to such
10 evidence."

11 Along the same lines the Court, within the
12 same ruling, said that -- noted that:

13 "The government argues that some of the
14 analyses that Ms. McHard had given, which may have
15 been run on spreadsheets but the government will not
16 use at trial, are irrelevant. The Court presumes by
17 the time that McHard's testimony is presented at
18 trial it will have become clear on what data the
19 government is using and that McHard's testimony will
20 be limited to such evidence."

21 And we believe that under the Court's
22 ruling that, to the extent that a spreadsheet did
23 inform -- did, in fact, form a basis of the
24 United States' exhibits, that's relevant, and they
25 can go into that.

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1 But to the extent that we are not relying
2 on it in any way to form the basis of evidence that
3 this jury has heard, it's not only irrelevant, it
4 would be confusing. It will fall squarely within
5 Rule 403 as to -- we would say not relevant at all,
6 and even if there was some small amount of relevance
7 to it, the danger of confusion created by it would
8 substantially outweigh the minimal amount of
9 relevance that could be attributed to it.

10 So we believe the Court's order already
11 covers this.

12 THE COURT: Is there any idea when
13 Ms. McHard will be testifying?

14 MR. ROBERT: Well, obviously, that depends
15 on the progress of the government's case. Right now
16 it's looking like Friday.

17 And I would say, Your Honor, the
18 spreadsheet is a single file, and it's the foundation
19 for the bulk of the government's evidence.

20 THE COURT: All right.

21 Well, I will -- I'm going to have to pull
22 up 262 and review it again. And I will -- we'll have
23 this -- we'll conclude this discussion before
24 Ms. McHard takes the stand.

25 So we'll take about a 10-minute break at

Defendants' Witness List	Contacted?	Testimony
1 Jason Moran	Yes	Brandi's confession wasn't consensual, agents took custodial control of her, officemax made money on ink recycling, no deception was involved nor necessary
2 Roberta Duran-Gonzales	Yes	Brandi's confession wasn't consensual, agents took custodial control of her, officemax made money on ink recycling, no deception was involved nor necessary
3 Patrick Vigil	No	Brandi's confession wasn't consensual, agents took custodial control of her, officemax made money on ink recycling, no deception was involved nor necessary
4 Benny Thacker-Pawlak	Yes	Came up with the permissive language on the adjustment screen
5 Warden Snelan	No	Enacted the permissive language on the adjustment screen
6 Janet McHard	Yes	Call into question the factual basis and questionable authorship of government spreadsheets
7-11 Officemax Managers	No	Ink cartridges had to meet strict requirements, not fooled by Movants, didn't consider what they were doing fraud
12 Alex LNU	No	Opted not to sign up for maxperks, couldn't care less if receipt was adjusted
13 Mark Gaiser	No	Opted not to sign up for maxperks, couldn't care less if receipt was adjusted
14-20 Officemax Employees	No	Ink cartridges had to meet strict requirements, not fooled by Movants, didn't consider what they were doing fraud
21 Christen Sproule	No	SDerClub could have been responsible for fake accounts, adjustments of receipts, and sold rewards to Matthew
22 Warren Tsang	No	Sold a lot of ink cartridges, Matthew spent way more than \$.34 each on them
23 Hank Winter	No	Sold a lot of ink cartridges, Matthew spent way more than \$.34 each on them
24 Bobby Duran	No	Officemax made money on ink recycling, no deception was involved nor necessary
25 John Moore	No	Data in spreadsheets are not original, spreadsheets are full of introduced errors, Gale/Mills are not qualified to introduce this evidence
26 Mike Byrnes	No	Data in spreadsheets are not original, spreadsheets are full of introduced errors, Gale/Mills are not qualified to introduce this evidence
27 Jennifer Berry	No	Didn't sign name to search warrant receipt even though she was present, questionable note-taking practices, further backup to what Brandi claimed
28 Raul Serrano	No	Impeachment witness about Gardner, and his experiences with Gardner extorting him and others, other things
29 Rita Klein	No	Officemax employees would know about ink recycling
30 Jim Cerkleski/Mark Palmer	No	Lexmark's MO in terms of recycling, the low difficulty and parts requirements for recycling ink cartridges, the HP & Lexmark's MO in terms of recycling, the low difficulty and parts requirements for recycling ink cartridges, the amount of money Officemax made off Movants

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Steven Gardner - Direct by Ms. Vierbuchen

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1 55, so you're now at 75.

2 So it would be -- actually be a quarter as
3 opposed to a month, because we pay teacher out
4 quarterly.

5 But it adds up as you do more transactions.

6 It doesn't reset itself in the month or the
7 quarter. Things get reset more so at the end of the
8 year.

9 So as long as you're spending that within
10 the year, once you reach that amount you start
11 getting rewards.

12 Q. Okay. And so I'm sorry if I'm -- I'm just a
13 little slow this morning.

14 But with ink recycling, I'm not quite
15 understanding the qualified spend difference.

16 Because if I just heard you correctly, with the
17 teacher account as opposed to just regular spending,
18 you spend 75, you get \$10, and you can use it on
19 anything?

20 A. Correct.

21 Q. But with the ink, with the qualifying purchase,
22 don't I have to do something else? Do I just get to
23 spend my \$3 that I get when I recycled my one
24 cartridge?

25 A. You have to wait until the -- if you're a

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BRANDI CHANNON'S
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Steven Gardner - Direct by Ms. Vierbuchen

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1 teacher -- to the end of the quarter, or a business,
2 until the end of the month, for that to get released
3 into your reward card.

4 Q. Okay. So in our example, the \$14 that was
5 spent at the time I did one ink, when you -- at the
6 time you're issuing the rewards at the quarter --

7 A. Correct.

8 Q. -- I would get \$3?

9 A. Yes.

10 Q. Okay.

11 A. That may explain it better.

12 Q. Okay. So I mean, you couldn't just take --
13 take -- if you recycle ink and you never spend you
14 don't get any rewards?

15 A. Correct. If you just recycle ink with us but
16 you never buy anything or equal that amount on
17 qualified spend, you're not going to get -- we don't
18 release those rewards back out.

19 Q. Okay. So now with that kind of -- how reward
20 cards are issued, I would like to talk to you about
21 Government's Exhibit 34, and ask you if you -- when
22 you were analyzing OfficeMax records, if you were
23 able to analyze the records regarding reward cards
24 that were spent on Group 1 and Group 2 accounts.

25 A. Yes, I was.

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Steven Gardner - Cross by Mr. Robbenhaar

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1 A. Correct.

2 Q. Recycled is \$35, the new one is almost 47?

3 A. Correct.

4 Q. All right. And then back to the ink recycling
5 program.

6 In this case customers could come in with
7 their cartridges, they would be awarded \$3 credit per
8 cartridge?

9 A. Correct.

10 Q. But to claim that credit they'd have to spend
11 an equal amount of money back in the store, right?

12 A. Yes.

13 Q. All right. And Office Depot in this case, in
14 the exhibits, or the aids that I'm having you
15 identify, is reselling it for almost \$36?

16 A. That is correct.

17 Q. All right.

18 MR. ROBBENHAAR: If I may approach the
19 witness, Your Honor?

20 THE COURT: You may.

21 BY MR. ROBBENHAAR:

22 Q. Now, you're familiar with the history of the
23 ink recycling program at OfficeMax?

24 A. Pretty familiar, yes.

25 Q. All right. It's been part of the MaxPerks

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Steven Gardner - Direct by Ms. Vierbuchen

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1 up the video where you can and you see who's making a
2 purchase or recycling the ink.

3 Q. And how did you marry up the video with the
4 records -- with the OfficeMax records?

5 A. It depended. If the video was in sync from a
6 time standpoint, because we use a time/date stamp on
7 our video, it would be as simple as going to that
8 time on the video and checking it.

9 There are some occurrences where the video
10 was off, daylight savings, or they had a power outage
11 and the store manager forgot to sync the video back
12 up to the actual time.

13 Those cases, comparing via the electronic
14 journal, what transaction came before it or after it
15 and what was in that purchase.

16 And if you have -- somebody comes in before
17 and buys some DVDs and then the next transaction was
18 ink recycle, the likelihood of that happening the
19 same day with two other people was very small, so you
20 look for that transaction.

21 And then, you know, as I started going
22 through the video and you see the same person over
23 and over again, well, if you're -- if you have a
24 feeling your person lives in New Mexico and you're
25 looking at a video from California or Arizona or

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Steven Gardner - Direct by Ms. Vierbuchen

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1 somewhere else and that person shows up on that day,
2 you're kind of like, What's the odds of that
3 happening where you've actually pulled the wrong
4 transaction?

5 Q. And so just so I -- just for a little more
6 clarity. So you went through all of these videos
7 yourself?

8 A. Correct.

9 Q. And then what did you do with -- how did you
10 marry them up to a transaction?

11 A. I just -- I married them up by looking at what
12 was purchased or being recycled. And if it's -- you
13 know, if there shows 20 inkjet cartridges being
14 recycled, you may all recall where I had that
15 Ejournal and there was, like, that ink that it kept
16 saying penny, penny, penny?

17 Well, when you look at that video, that's a
18 cashier shooting, with a gun, a little bar code 20
19 times, so that's pretty easy to identify.

20 And then if right after that there was two
21 gift cards being purchased in that transaction, okay,
22 wow, there's 20 scans and now you've got a gift card
23 here and a gift card here.

24 Or another transaction and you see the
25 person buying what looks like a glue stick and after

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1 it, you know, a prepaid credit card, well, here is
2 that transaction.

3 And from the video, yeah, that looks like
4 what's occurring here.

5 Q. And so did you try to do that in at least 80
6 instances of where you were able to obtain video?

7 A. Yes.

8 Q. And did you -- what did you do with that video
9 after you had gone through this process?

10 A. Well, I secured it, of course. And then once
11 we reported our findings to the FBI, I forwarded it
12 to them.

13 Q. Let's go to Government's Exhibit 22.

14 MS. VIERBUCHEN: One second. Don't pull it
15 up.

16 I move for the admission of Government's
17 Exhibit 22. It is simply a compilation of 4 and 19.

18 THE COURT: Is there objection?

19 MR. ROBBENHAAR: The same objection,
20 Your Honor.

21 MR. HOTCHKISS: Join by Ms. Channon.

22 THE COURT: All right. And it's a
23 compilation of 4 and 19?

24 MS. VIERBUCHEN: That's correct,
25 Your Honor.

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MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 10/1/20

Trans Key	Member ID	ans	Trans Date	Trans Time	Store ID	Store C	Online	Receipt Nbr	Register ID	Net Sales	Gross Sales	Units	Submitted
S_192126166	796134674	1	03/03/2010	1:12:49 PM	1105	Retail	0	000000000008680	0000000000001	\$0.00	\$0.20	20	20
S_192209917	796147997	1	03/03/2010	12:39:09 PM	1313	Retail	0	000000000003107	0000000000002	\$0.00	\$0.20	20	20
S_192135177	796190477	1	03/03/2010	2:03:16 PM	0538	Retail	0	000000000004659	0000000000001	\$0.00	\$0.10	10	10
S_192312578	796190477	1	03/03/2010	2:10:43 PM	0538	Retail	0	000000000000616	0000000000004	\$0.00	\$0.10	10	10
S_192274936	796164093	1	03/03/2010	2:30:44 PM	1225	Retail	0	0000000000008541	0000000000003	\$0.00	\$0.20	20	20
S_1923369755	796163798	1	03/03/2010	3:19:47 PM	0799	Retail	0	0000000000006027	0000000000009	\$0.00	\$0.20	20	20
S_192156017	796155019	1	03/03/2010	4:10:00 PM	0595	Retail	0	000000000004015	0000000000001	\$0.00	\$0.20	20	20
S_192231639	796190639	1	03/03/2010	4:40:22 PM	0426	Retail	0	000000000002949	0000000000002	\$0.00	\$0.21	21	21
S_192183535	796085916	1	03/03/2010	7:20:40 PM	0126	Retail	0	000000000000655	0000000000001	\$0.00	\$0.20	20	20

Site	Address	City	ST	Zip	Phone	Fax
0126	1016 E. Fort Union Blvd.	Midvale	UT	84047	801.566.7578	801.566.7820
0426	2837 South Maryland Parkway	Las Vegas	NV	89109	702.732.4244	702.732.0883
0538	2201 North Rainbow	Las Vegas	NV	89108	702.647.4878	702.647.4648
0595	41 N. Nellis Blvd.	Las Vegas	NV	89110	702.437.8962	702.437.9541
0799	1711 W. Craig Rd.	N. Las Vegas	NV	89030	702.657.9344	702.657.9424
1105	8720 West Charleston Blvd.	Las Vegas	NV	89117	702.951.4000	702.951.4007
1225	7761 West Tropical Parkway	Las Vegas	NV	89149	702.243.3556	702.243.3557
1313	6980 Arroyo Crossing Parkway	Las Vegas	NV	89101	702-617-0082	702-617-0095

BRANDI CHANNON'S

EXHIBIT

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MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 10/1/20

Trans Key	Member ID	Trans ID	Trans Date	Trans Time	Store ID	Store C	Online	Receipt Nbr	Register ID	Net Sales	Gross Sales	Units	Submitted
S_193570391	796100834	1	03/08/2010	2:56:00 PM	0101	Retail	0	0000000000007545	0000000000000001	\$0.00	\$0.20	20	20
S_193701557	796100796	1	03/08/2010	2:25:18 PM	0425	Retail	0	0000000000003265	0000000000000003	\$0.00	\$0.20	20	20
S_193739879	625384494	1	03/08/2010	1:21:43 PM	0422	Retail	0	00000000000006988	0000000000000004	\$75.98	\$76.18	23	20

Site	Address	City	ST	Zip	Phone	Fax
0101	1180 East Brickyard Road	Salt Lake City	UT	84106	801.487.2207	801.487.2722
0422	3301 Menaul Blvd. NE, Suite A	Albuquerque	NM	87107	505.889.9696	505.889.9466
0425	410 South 900 East	Salt Lake City	UT	84102	801.521.4330	801.328.2060

BRANDI CHANNON'S
EXHIBIT**225**

1:13-CR-966-JCH-KK 2255 MOTION



Matt Channon <hydrazok@gmail.com>

You created a shipping label with PayPal Shipping

service@paypal.com <service@paypal.com>
To: Channon Silichem <hydrazok@gmail.com>

Mon, Mar 8, 2010 at 1:56 PM



Transaction ID: 698588433Y258710X

You created a shipping label

Hello Channon Silichem,

You created a shipping label using PayPal Shipping with U.S. Postal Service®. Track your shipment

Please note that tracking information updates occur mostly in the afternoon or evening, so you might not see it until the next day.

Tracking number 9101785091401434759363

Label purchase date Mar 8, 2010 12:56:45 PST

Total shipping cost \$2.94 USD

Insured value

Shipping label transaction ID 04F84822EK368334H

Ready to ship?

You can:

- Ship your items at any of the 38,000 U.S. Postal Service locations nationwide.
- Give it to your mail carrier, or request a pickup for the next postal delivery day.

All you need to do is print and send. We'll email your buyer with all the tracking information.

Made a mistake on the label?

You have 48 hours to void it. We'll let the U.S. Postal Service know you've voided the label, and we'll respond within 15 calendar days. If your void is approved, we'll credit the amount to your PayPal account.

Need to print your label again?

You can reprint your U.S. Postal Service shipping label, but must do it within 24 hours of creating it.



Buyer

Vincent Liuzza
karen@liuzza.net

Shipping address - confirmed

Vincent Liuzza
111 N. Causeway Blvd
Ste 200
Mandeville, LA
70448
United States

Note to seller

Please let me know if we can get this shipped quicker than standard rate. We will be glad to provide you with our fed ex account number

Shipping details

Mailing date: Mar 8, 2010
Shipper: U.S. Postal Service
Tracking number:
9101785091401434759363
Service type: First-Class Mail® Parcel (2-5 days)
Shipping Status: Shipped

Description	Unit price	Qty	Amount
New Sealed OmniForm v5.0 Form Scanning OCR Software Item# 150412925488	\$35.97 USD	1	\$35.97 USD



Subtotal	\$35.97 USD
Shipping and handling	\$0.00 USD
Insurance - optional	\$0.00 USD
Tax	\$0.00 USD
Total	\$35.97 USD

Payment sent to hydrazok@gmail.com

Thanks,
PayPal

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PayPal Email ID PP241



Matt Channon <hydrazok@gmail.com>

You created a shipping label with PayPal Shipping

service@paypal.com <service@paypal.com>
To: Channon Silichem <hydrazok@gmail.com>

Mon, Mar 8, 2010 at 2:00 PM



Transaction ID: 7AR18333MX072500C

You created a shipping label

Hello Channon Silichem,

You created a shipping label using PayPal Shipping with U.S. Postal Service®. Track your shipment

Please note that tracking information updates occur mostly in the afternoon or evening, so you might not see it until the next day.

Tracking number 9101150134711097066938

Label purchase date Mar 8, 2010 13:00:04 PST

Total shipping cost \$8.82 USD

Insured value

Shipping label transaction ID 56B66863T4638472D

Ready to ship?

You can:

- Ship your items at any of the 38,000 U.S. Postal Service locations nationwide.
- Give it to your mail carrier, or request a pickup for the next postal delivery day.

All you need to do is print and send. We'll email your buyer with all the tracking information.

Made a mistake on the label?

You have 48 hours to void it. We'll let the U.S. Postal Service know you've voided the label, and we'll respond within 15 calendar days. If your void is approved, we'll credit the amount to your PayPal account.

Need to print your label again?

You can reprint your U.S. Postal Service shipping label, but must do it within 24 hours of creating it.

**BRANDI CHANNON'S
EXHIBIT**

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1:13-CR-966-JCH-KK 2255 MOTION

Buyer

Ian Tullock
Squire_Whipple@hotmail.com

Shipping address - confirmed

Ian Tullock
540 Hopmeadow St., Apt. 1
Simsbury, CT
06070
United States

Shipping details

Mailing date: Mar 8, 2010
Shipper: U.S. Postal Service
Tracking number:
9101150134711097066938
Service type: Priority Mail® (2-3 days)
Shipping Status: Shipped

Description	Unit price	Qty	Amount
New Sealed Brother PT-1290 Handheld Label Printer Maker Item# 150419422384	\$14.51 USD	1	\$14.51 USD



Subtotal	\$14.51 USD
Shipping and handling	\$6.99 USD
Insurance - optional	\$0.00 USD
Tax	\$0.00 USD
Total	\$21.50 USD

Payment sent to hydrazok@gmail.com

Thanks,
PayPal

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PayPal Email ID PP241

Excerpt from "transdetails - new group", from "1559 to 1562 - All Accounts and Transactions.xlsx"												
Trans Key	Member ID	Trans Date	Trans Time	Store	Store	City/State	Receipt Nbr	Register ID	Net Sale	Gross Sale	Units	Total Pa
193853125	644861481	03/09/2010	10:23:49.000	0372	Retail	Henderson, NV	0000000000006605	00000000001	\$1.59	\$1.59	\$1.00	\$1.72
193907428	640921854	03/09/2010	15:56:21.000	0101	Retail	Salt Lake City, UT	0000000000007646	00000000001	\$26.99	\$26.99	\$1.00	\$28.84
194127092	644861481	03/09/2010	16:53:27.000	1307	Retail	Goodyear, AZ	0000000000003030	00000000009	\$10.00	\$10.00	\$8.00	\$10.88
193933912	649730326	03/09/2010	19:05:56.000	1156	Retail	Albuquerque, NM	0000000000007731	00000000001	\$155.94	\$206.14	\$23.00	\$159.30
193936882	644861481	03/09/2010	19:31:21.000	0372	Retail	Henderson, NV	0000000000006781	00000000001	\$15.98	\$15.98	\$2.00	\$17.28
193940942	645771818	03/09/2010	20:11:44.000	1183	Retail	Tucson, AZ	0000000000008579	00000000001	\$16.99	\$16.99	\$1.00	\$18.36

BRANDI CHANNON'S
EXHIBIT

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MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 10/1/20

Trans Key	Member ID	ans	Trans Date	Trans Time	Store ID	Store C	Online	Receipt Nbr	Register ID	Net Sales	Gross Sales	Units	Submitte
S_195214879	626078303	1	03/13/2010	1:15:04 PM	1225	Retail	0	00000000009848	0000000000003	\$0.00	\$0.20	20	20
S_195096091	621696548	1	03/13/2010	1:16:42 PM	0217	Retail	0	000000000002139	0000000000001	\$84.99	\$200.19	21	20
S_195084742	636098981	1	03/13/2010	12:08:13 PM	0451	Retail	0	0000000000006478	0000000000001	\$0.00	\$0.20	20	20
S_195089171	642905074	1	03/13/2010	12:33:56 PM	1105	Retail	0	000000000001630	0000000000001	\$0.00	\$0.20	20	20
S_195093209	629459324	1	03/13/2010	12:58:50 PM	0538	Retail	0	0000000000005274	0000000000001	\$0.00	\$0.20	20	20
S_195104215	655725431	1	03/13/2010	2:05:42 PM	0799	Retail	0	0000000000004085	0000000000001	\$0.00	\$0.20	20	20
S_195255586	626576443	1	03/13/2010	2:45:05 PM	0595	Retail	0	0000000000009647	0000000000004	\$0.00	\$0.20	20	20
S_195178754	656690453	1	03/13/2010	3:08:04 PM	0426	Retail	0	0000000000004536	0000000000002	\$0.00	\$0.20	20	20
S_195118353	642373757	1	03/13/2010	3:29:53 PM	0456	Retail	0	0000000000003147	0000000000001	\$0.00	\$0.20	20	20
S_195122922	622592509	1	03/13/2010	3:58:28 PM	0372	Retail	0	0000000000007642	0000000000001	\$0.00	\$0.20	20	20
S_195129766	796134518	1	03/13/2010	4:45:13 PM	0973	Retail	0	0000000000003821	0000000000001	\$0.00	\$0.20	20	20

Site	Address	City	ST	Zip	Phone	Fax
0217	40 Hotel Circle NE	Albuquerque	NM	87123	505.292.1400	505.292.5558
0372	549 N. Stephanie St.	Henderson	NV	89014	702.451.7774	702.451.7312
0426	2837 South Maryland Parkway	Las Vegas	NV	89109	702.732.4244	702.732.0883
0451	2640 South Decatur	Las Vegas	NV	89102	702.221.0471	702.221.0476
0456	4995 S. Eastern Avenue	Las Vegas	NV	89119	702.736.4411	702.736.1449
0538	2201 North Rainbow	Las Vegas	NV	89108	702.647.4878	702.647.4648
0595	41-N. Nellis Blvd.	Las Vegas	NV	89110	702.437.8962	702.437.9541
0799	1711 W. Craig Rd.	N. Las Vegas	NV	89030	702.657.9344	702.657.9424
0973	2100 East Serene Ave.	Las Vegas	NV	89123	702.896.3441	702.896.1163
1105	8720 West Charleston Blvd.	Las Vegas	NV	89117	702.951.4000	702.951.4007
1225	7761 West Tropical Parkway	Las Vegas	NV	89149	702.243.3556	702.243.3557

BRANDI CHANNON'S
EXHIBIT

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1:13-CR-966-JCH-KK 2255 MOTION

MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 4/1/2011 assigned to MaxPerks MemberID																
Type	Trans Key	Member ID	Email Address	ans	Trans Date	Trans Time	Store	Store City	Store	Store (Onl)	Ac Receipt Nbr	Register ID	OrigNet Sales	Gross Sales	Units	Subr:Total Paym
Other	S_198755301	645377125	cmsilver12@gmail.com	1	3/26/10	10:56:42 AM	0637	Flagstaff	AZ	Retail	0	0000000000006025	00000000003	\$75.00	\$75.20	22 20 \$75.00
Teech	S_198637096	796352612	teechnr.1234567@gmail.com	1	3/26/10	11:53:55 AM	0451	Las Vegas	NV	Retail	0	0000000000008399	00000000001	\$0.00	\$0.20	20 20 \$0.00
Teech	S_198640300	796352736	teechnr.1234567@gmail.com	1	3/26/10	12:17:05 PM	1105	Las Vegas	NV	Retail	0	0000000000005292	00000000001	\$0.00	\$0.20	20 20 \$0.00
Teech	S_198797026	796352817	teechnr.1234567@gmail.com	1	3/26/10	12:46:11 PM	0538	Las Vegas	NV	Retail	0	0000000000003664	00000000004	\$0.00	\$0.18	18 18 \$0.00
Teech	S_198729013	796350652	teechnr.1234567@gmail.com	1	3/26/10	2:54:35 PM	0426	Las Vegas	NV	Retail	0	0000000000006506	00000000002	\$0.00	\$0.20	20 20 \$0.00
Other	S_198665409	643138158	lrqqq@gmail.com	1	3/26/10	3:03:21 PM	0739	Phoenix	AZ	Retail	0	000000000001097	00000000001	\$50.00	\$50.20	21 20 \$50.00
Teech	S_198668631	796355476	teechnr.1234567@gmail.com	1	3/26/10	3:26:05 PM	0595	Las Vegas	NV	Retail	0	0000000000009938	00000000001	\$0.00	\$0.20	20 20 \$0.00
Other	S_198802688	627657447	in7crane@gmail.com	1	3/26/10	3:38:01 PM	0498	Phoenix	AZ	Retail	0	0000000000009770	00000000004	\$0.00	\$0.20	20 20 \$0.00
Other	S_198802725	627657447	in7crane@gmail.com	1	3/26/10	3:39:15 PM	0498	Phoenix	AZ	Retail	0	0000000000009771	00000000004	\$206.95	\$206.95	2 0 \$206.95
Other	S_198734664	623428273	devilsrule08@gmail.com	1	3/26/10	4:13:56 PM	0154	Phoenix	AZ	Retail	0	0000000000005029	00000000002	\$107.50	\$170.20	21 20 \$116.42
Teech	S_198677509	796349913	teechnr.1234567@gmail.com	1	3/26/10	4:33:33 PM	0456	Las Vegas	NV	Retail	0	0000000000005332	00000000001	\$0.00	\$0.20	20 20 \$0.00
Other	S_198688773	650486889	tempesttempests@gmail.com	1	3/26/10	6:16:41 PM	0418	Phoenix	AZ	Retail	0	0000000000009413	00000000001	\$0.00	\$0.20	20 20 \$0.00
Other	S_198789314	629207597	lsws11@live.com	1	3/26/10	8:13:54 PM	1426	Glendale	AZ	Retail	0	0000000000004970	00000000003	\$206.95	\$207.15	22 20 \$206.95
Other	S_198809843	631997074	ksgold75@gmail.com	1	3/26/10	8:50:19 PM	0231	Glendale	AZ	Retail	0	0000000000007937	00000000004	\$0.00	\$0.20	20 20 \$0.00
From Bates 3273																

BRANDI CHANNON'S
EXHIBIT

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1:13-CR-966-JCH-KK 2255 MOTION

MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 10/1/20

Trans Key	Member ID	ans	Trans Date	Trans Time	Store ID	Store C	Online	Receipt Nbr	Register ID	Net Sales	Gross Sales	Units	Submitted
S_206733301	642049194	1	04/26/2010	10:17:18 AM	0375	Retail	0	000000000000466	0000000000000002	\$0.00	\$0.20	20	20
S_206639584	648012993	1	04/26/2010	10:29:06 AM	0638	Retail	0	0000000000005428	0000000000000001	\$206.95	\$206.95	2	0
S_206641124	626805442	1	04/26/2010	10:41:48 AM	0499	Retail	0	0000000000005467	0000000000000001	\$0.00	\$0.20	20	20
S_206760150	630504937	1	04/26/2010	3:58:34 PM	1090	Retail	0	0000000000007542	0000000000000002	\$0.00	\$0.20	20	20
S_206632473	625513685	1	04/26/2010	9:19:02 AM	0422	Retail	0	0000000000008517	0000000000000001	\$100.00	\$100.00	1	0

Site	Address	City	ST	Zip	Phone	Fax
0375	1120 Ken Pratt Blvd.	Longmont	CO	80501	303.651.7750	303.651.2848
0422	3301 Menaul Blvd. NE, Suite A	Albuquerque	NM	87107	505.889.9696	505.889.9466
0499	1880 30th Street	Boulder	CO	80301	303.440.4009	303.440.9515
0638	3731-A Ellison Rd NW (Cottonwood Cmrs)	Albuquerque	NM	87114	505.897.9275	505.897.9348
1090	1453 East Eisenhower Blvd.	Loveland	CO	80537	970.593.0011	970.593.0022

BRANDI CHANNON'S
EXHIBIT

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1:13-CR-966-JCH-KK 2255 MOTION

MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 10/1/20

Trans Key	Member ID	ans	Trans Date	Trans Time	Store ID	Store C	Online	Receipt Nbr	Register ID	Net Sales	Gross Sales	Units	Submitte
S_208294696	796205679	1	04/30/2010	1:02:41 PM	0638	Retail	0	0000000000006194	0000000000000001	\$0.00	\$0.20	20	20
S_208300534	796207612	1	04/30/2010	1:41:09 PM	0422	Retail	0	0000000000009562	0000000000000001	\$0.00	\$0.20	20	20
S_208289178	796085916	1	04/30/2010	12:26:35 PM	1156	Retail	0	0000000000003484	0000000000000001	\$0.00	\$0.20	20	20
S_208420007	796100834	1	04/30/2010	2:15:18 PM	0217	Retail	0	0000000000002516	0000000000000003	\$0.00	\$0.20	20	20
S_208423405	626078303	1	04/30/2010	3:02:04 PM	1313	Retail	0	00000000000007861	0000000000000003	\$0.00	\$0.20	20	20
S_208316314	796190639	1	04/30/2010	3:30:57 PM	0451	Retail	0	00000000000003368	0000000000000001	\$0.00	\$0.20	20	20
S_208320178	655725431	1	04/30/2010	4:00:28 PM	1105	Retail	0	00000000000004506	0000000000000001	\$0.00	\$0.20	20	20
S_208455103	626576443	1	04/30/2010	4:15:36 PM	0538	Retail	0	00000000000007931	0000000000000004	\$0.00	\$0.20	20	20
S_208429552	642373757	1	04/30/2010	4:33:01 PM	1225	Retail	0	00000000000006510	0000000000000003	\$0.00	\$0.20	20	20
S_208332220	656690453	1	04/30/2010	5:37:44 PM	0595	Retail	0	00000000000008608	0000000000000001	\$0.00	\$0.20	20	20
S_208391797	622592509	1	04/30/2010	6:34:19 PM	0426	Retail	0	00000000000001708	0000000000000002	\$0.00	\$0.20	20	20

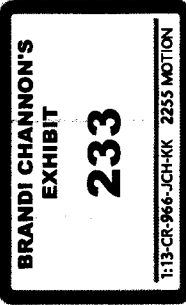
Site	Address	City	ST	Zip	Phone	Fax
0217	40 Hotel Circle NE	Albuquerque	NM	87123	505.292.1400	505.292.5558
0422	3301 Menaul Blvd. NE, Suite A	Albuquerque	NM	87107	505.889.9696	505.889.9466
0426	2837 South Maryland Parkway	Las Vegas	NV	89109	702.732.4244	702.732.0883
0451	2640 South Decatur	Las Vegas	NV	89102	702.221.0471	702.221.0476
0538	2201 North Rainbow	Las Vegas	NV	89108	702.647.4878	702.647.4648
0595	41 N. Nellis Blvd.	Las Vegas	NV	89110	702.437.8962	702.437.9541
0638	3731-A Ellison Rd NW (Cottonwd Cmrs)	Albuquerque	NM	87114	505.897.9275	505.897.9348
1105	8720 West Charleston Blvd.	Las Vegas	NV	89117	702.951.4000	702.951.4007
1156	8100 Wyoming N.E.	Albuquerque	NM	87113	505.821.1144	505.821.7184
1225	7761 West Tropical Parkway	Las Vegas	NV	89149	702.243.3556	702.243.3557
1313	6980 Arroyo Crossing Parkway	Las Vegas	NV	89101	702.617-0082	702.617-0095

BRANDI CHANNON'S
EXHIBIT

232

1:13-CR-966-JCH-KK 2255 MOTION

MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 4/1/2011 assigned to MaxPerks MemberID																	
Type	Trans Key	Member ID	Email Address	ans	Trans Date	Trans Time	Store ID	Store City	Store	Store (On)	Ac Receipt Nbr	Register ID	Or:Ord Net Sales	Gross Sales	Units	Sub: Total Paym	Recycling Units
Other	S_212510913	623108678	moirepart@gmail.co	1	5/11/10	5:10:30 PM	0736	Santa Fe	NM	0	0000000000001196	000000000003	\$105.95	\$106.15	22	20	\$105.95
Teech	S_212403011	796355476	teechnr1.234567@	1	5/11/10	5:01:05 PM	0973	Las Vegas	NV	0	00000000000007667	000000000001	\$0.00	\$0.20	20	20	\$0.00
Other	S_212415015	632365748	statesidebawite@	1	5/11/10	6:31:14 PM	0736	Santa Fe	NM	0	00000000000001231	000000000001	\$0.00	\$0.20	20	20	\$0.00
From Bates 3273																	



MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 10/1/20

Trans Key	Member ID	ans	Trans Date	Trans Time	Store ID	Store C	Online	Receipt Nbr	Register ID	Net Sales	Gross Sales	Units	Submitted
S_221574667	795885153	1	06/17/2010	8:54:28 AM	0217	Retail	0	000000000007697	0000000000001	\$0.00	\$0.20	20	20
S_221657674	647439217	1	06/17/2010	9:54:16 AM	0375	Retail	0	000000000007925	0000000000002	\$0.00	\$0.20	20	20
S_221671651	620354481	1	06/17/2010	1:31:21 PM	1090	Retail	0	000000000003006	0000000000002	\$0.00	\$0.20	20	20
S_221699581	654537518	1	06/17/2010	10:19:59 AM	0499	Retail	0	000000000001245	0000000000003	\$0.00	\$0.20	20	20
S_221771351	630504937	1	06/17/2010	10:42:45 AM	1055	Retail	0	0000000000007262	0000000000009	\$0.00	\$0.20	20	20

Site	Address	City	ST	Zip	Phone	Fax
0217	40 Hotel Circle NE	Albuquerque	NM	87123	505.292.1400	505.292.5558
0375	1120 Ken Pratt Blvd.	Longmont	CO	80501	303.651.7750	303.651.2848
0499	1880 30th Street	Boulder	CO	80301	303.440.4009	303.440.9515
1055	410 Center Dr.	Superior	CO	80027	303.499.4484	303.499.1161
1090	1453 East Eisenhower Blvd.	Loveland	CO	80537	970.593.0011	970.593.0022

**BRANDI CHANNON'S
EXHIBIT**

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1:13-CR-966-JCH-KK 2255 MOTION

MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 10/1/20

Trans Key	Member ID	ans	Trans Date	Trans Time	Store ID	Store C	Online	Receipt Nbr	Register ID	Net Sales	Gross Sales	Units	Submitte
S_225839971	644861481	1	07/06/2010	2:06:00 PM	0422	Retail	0	0000000000001078	00000000000004	\$122.44	\$122.64	23	20
S_225813724	796100796	1	07/06/2010	2:48:38 PM	0425	Retail	0	00000000000006267	00000000000003	\$0.00	\$0.20	20	20
S_225829715	636905534	1	07/06/2010	8:05:08 PM	0217	Retail	0	00000000000009710	00000000000003	\$105.95	\$106.15	23	20
S_225904224	640921854	1	07/06/2010	8:36:54 PM	1156	Retail	0	00000000000006364	00000000000009	\$0.00	\$0.20	20	20
S_225904280	640921854	1	07/06/2010	8:38:55 PM	1156	Retail	0	00000000000006365	00000000000009	\$105.95	\$105.95	2	0

Site	Address	City	ST	Zip	Phone	Fax
0217	40 Hotel Circle NE	Albuquerque	NM	87123	505.292.1400	505.292.5558
0422	3301 Menaul Blvd. NE, Suite A	Albuquerque	NM	87107	505.889.9696	505.889.9466
0425	410 South 900 East	Salt Lake City	UT	84102	801.521.4330	801.328.2060
1156	8100 Wyoming N.E.	Albuquerque	NM	87113	505.821.1144	505.821.7184

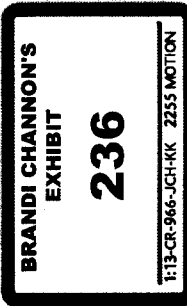
**BRANDI CHANNON'S
EXHIBIT**

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1:13-CR-966-JCH-KK 2255 MOTION

MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 10/1/2009 as										
Trans Key	Member ID	Trans ID	Trans Date	Trans Time	Store ID	Store Name	Receipt Nbr	Register ID	Gross Sales	Units Purchased
S_286323008	796205679	1	01/24/2011	1:20:33 PM	1271	Retail	0000000000007561	000000000001	\$0.00	20
S_286335975	815830717	1	01/24/2011	4:31:49 PM	0837	Retail	0000000000006237	000000000001	\$39.98	3
S_286376613	6483350066	1	01/24/2011	6:04:31 PM	0837	Retail	0000000000006276	000000000001	\$0.00	20

Site	Address	City	ST	Zip	Phone	Fax
0837	2561 E. Lohman, Suite C	Las Cruces	NM	88011	505.532.6620	505.532.6624
1271	9580 Est 22nd St.	Tucson	AZ	85748	520.751.3905	520.751.6070



From: Gardner, Steven [REDACTED]
Sent: Thursday, June 30, 2011 11:41 AM
To: Boady, Michael
Subject: FW: Credit Card information new channon account
Attachments: Debit 6-22.xlsx

Special Agent Boady,

Great news, I was able to link one of the accounts to a debit card that used to make a purchase at store 638 (Albuquerque, NM) on 4/13/2011 under MaxPerks account 813845709. I had our credit department pull the debit account information and although I don't have a customer name I attached a file with the card #, and bank contact information. I also linked this card to 6 other MaxPerks accounts (2 appear to be a miss-keys that belong to ones you provided). I will forward that information when I get it finalized.

Also, what days would you like me to come out I was thinking Tuesday and Wednesday (7/12 and 7/13), let me know if that works? I want to book the airfare by tomorrow.

Thanks and feel free to call.

Steven Gardner
Manager Investigations & ORC, Loss Prevention

[REDACTED]

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Cha

**BRANDI CHANNON'S
EXHIBIT**

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1:13-CR-966-JCH-KK 2255 MOTION

Steven Gardner - Direct by Ms. Vierbuchen

Page 756

1 Q. All right. We saw the MaxPerks number on the
2 Ejournal? Did we see the MaxPerks number on the
3 Ejournal?

4 A. Yeah. I believe it was the last four digits.

5 Q. Okay.

6 MS. VIERBUCHEN: Agent Moon, please move
7 across.

8 BY MS. VIERBUCHEN:

9 Q. And there is the e-mail address?

10 A. Correct.

11 Q. Do you -- did you make any observations about
12 this string of accounts that we are looking at?

13 A. Yes. They are all going to go back to the same
14 gmail account, because they have the floating period
15 in them.

16 Q. Okay. And so now if we go back to the video,
17 having seen the electronic receipts, if you could
18 describe what's occurring in the video, and we will
19 pause it at various times.

20 (Whereupon the video recording was played.)

21 A. If you pause it right here, you will see Brandi
22 Channon coming through the front door in the upper
23 left-hand screen. She's got a bag in her hand, as we
24 saw in the video.

25 Q. At what time does she come in?

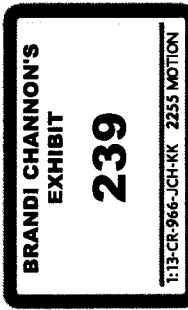
PAUL BACA, OFFICIAL COURT REPORTER

BRANDI CHANNON'S
EXHIBIT

238

1:13-CR-966-JCH-KK 2255 MOTION

MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 4/1/2011 as											
Trans Key	Member ID	Email Address	Trans Date	Trans Time	Store ID	Store City	Store	Store C	Receipt Nbr	Register ID	
Garble S_319703179	861551156	ga.r.ble123.4.5.678@g	6/2/11	2:33:13 PM	1261	Macedonia	OH	Retail	00000000000002706	000000000000	
Teech S_374198114	796519495	tee.ch.u.r.1.23.4.5.678@	12/20/11	7:07:47 PM	1509	Orlando	FL	Retail	00000000000003275	000000000000	
Bargle S_389048591	860544539	ba.r.g.le.1234.5.678@g	2/4/12	3:56:42 PM	1288	Flower Mound	TX	Retail	00000000000001731	000000000000	



	purchase and sale of gift cards, including but not limited to the specific policy regarding gift card fees.	all discoverable material in its possession within this category, as stated in the October 24 letter.
28	Copies of all FBI 1A envelopes and their contents.	The United States is unaware of any discoverable content in the 1A envelopes. Any Jencks Act material contained in the envelopes will be produced at or before the time provided by law (or by the date provided on the Court's scheduling order).
29	Copies of all FBI chains of custody for each piece of evidence seized by law enforcement in this case.	There is nothing on the chains of custody that is discoverable at this time, as stated in the October 24 letter. Rule 16(a)(2) excludes internal government documents created during the investigation of a case.
30	Copies of all documents and records obtained by law enforcement during the search warrant of Mr. Channon's residence and any other search warrant executed in conjunction with this case.	Regarding documents seized during the search of the Channon's residence, see Part II(A), <i>supra</i> , at 6-7. The October 24 letter informed Defendants that the government does not intend to use any documents seized from 1132 Calle del Oso in its case in chief against the Channons. If Defendants are claiming that the evidence seized from J.M. and R.G.'s residence in Taos is material to their defense, then the United States will produce copies or photographs of this evidence in the same manner as it did with evidence from the Channons' residence.
31	A copy of the government's Encase (or similar computer forensic report/analysis) for each computer or electronic device/medium seized by the government in this case.	The United States has disclosed all forensic reports in its possession. As stated above, the United States is generating a disc of examination results from the very recent re-examination of the hard drives, and that disc will be disclosed as soon as it is ready.
34	Any and all documents and records of relevant MaxPerk account signups including the IP addresses the requests were made from, dates, and times.	The United States has already disclosed all discoverable material in its possession within this category, as stated in the October 24 letter.
35	Any and all documents and records of relevant	The United States has already disclosed

Southwest Airlines

E-mail address	Transaction/Member #	Business Name	Name	Address	City	St	ZIP	Phone	Date & Time
bargl.e123.4.5.678@gmail.com	13871219	860568314 TCH U KEARNEY ELEMENTARY SCHOOL	TERRI T FIECKE	3630 BIG ELM	KEARNEY	MO	64060	8169021617	7/7/10 7:04 AM

PNR: QCA2XE
 PAX Name: CHANNON, MATTHEW
 PAX No.: 2
 Agent: 9999IB
 Sabre PNR:
 Ticket Type: E-Ticket (SET)

Flight No.: 435
 Origin: ABQ
 Destination: DAL
 Agency: HDQ
 Mkt Carrier: WN
 Booking Source: Individual

Departure: 07/07/10
 Booking Date: 06/11/10
 Booking Time: 5:15 PM
 Agent Duty Code: SU
 Code Share: N

VCR TICKET INFORMATION

E-Ticket No: 526 2105682125 Issue Date: 06/11/10 Expiration Date: 06/11/11
 Pax Name: CHANNON/MATTHEW Customer Acct:
 Reservation System: SOUTHWEST AIRLINES ARC No:
 Book Method: Southwest.com Book Source:
 Add/Collect: 0.00USD Currency Conversion Rate: 0.0
 Endorsements: NON REFUNDABLE/ STANDBY REQ UPGRADE TO YL

SOLD ITINERARY

O/X	Cpn#	Mktg	Opng	Fit #	Fit Date	Dept Time	Arrl Time	Orig	Dest	Fare Basis	Fare	Involuntary	Detngr	Change Type
1	WN	WN	435	07/07/10	6:50 AM	9:30 AM	ABQ	DAL	TZ21NTNR					
X	2	WN	WN	16	07/07/10	11:25 AM	12:25 PM	DAL	LBB	TZ21NTNR				

COUPON ACTUAL ACTIVITY

Cpn#	Cpn Status	Fit #	Fit Date	Orig	Dest	Fare Basis
1	B - COUPON USED TO FLY BD - COUPON LIFTED CK - COUPON CHECKED IN I - OK	435	07/07/2010	ABQ	DAL	TZ21NTNR
2	I - OK CK - COUPON CHECKED IN I - OK	16	07/07/2010	DAL	LBB	TZ21NTNR

E-Ticket No: 526 2105682126 Issue Date: 06/11/10 Expiration Date: 06/11/11
 Pax Name: LUCERO/BRANDI Customer Acct:
 Reservation System: SOUTHWEST AIRLINES ARC No:
 Book Method: Southwest.com Book Source:
 Add/Collect: 0.00USD Currency Conversion Rate: 0.0
 Endorsements: NON REFUNDABLE/ STANDBY REQ UPGRADE TO YL

BRANDI CHANNON'S
EXHIBIT

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1:13-CR-966-JCH-KK 2255 MOTION

SWA000014

Channon 0643

W 3/24/11

Southwest Airlines

E-mail address	Transaction Member #	Business Name	Name	Address	City	St	ZIP	Phone	Date & Time
garbi.e1.2.34.5678@gmail.com	14283066	TCH V EASTON ELEMENTARY SCHOOL	MARY M KELLY	2336 FIVE POINTS	EASTON	MD	21601	4432584662	8/25/10 12:36 PM

PNR: DBX45P
PAX Name: CHANNON, MATTHEW
PAX No.: 1
Agent: 9999IB
Sabre PNR:
Ticket Type: E-Ticket (SET)

Flight No.:
Origin:
Destination:
Agency:
Mkt Carrier:
Booking Source:

12
ABQ
LAX
HDQ
WN
Individual

Departure:
Booking Date:
Booking Time:
Agent Duty Code:
Code Share:

08/25/10
08/22/10
1:48 PM
SU
N

BOOKED ITINERARY

Flt	ORG	DST	Dep Date	Arr Date	Class	Status	Orig	Conn	PAX	Booked On	Agent	Received From	Cancelled On	XLD by Agent	XLD Recvd From
12	ABQ	LAX	08/25/2010 11:50 AM	08/25/2010 12:45 PM	O	HK	NN	B	1	08/22/2010 1:48 PM	9999IBHDQSU CHANNON	MATTHEW CHANNON			
1002	LAX	TUS	08/25/2010 1:40 PM	08/25/2010 3:00 PM	O	HK	NN	L	1	08/22/2010 1:48 PM	9999IBHDQSU CHANNON	MATTHEW CHANNON			
34Z	TUS	LAX	08/28/2010 11:05 AM	08/28/2010 12:35 PM	O	HK	NN	B	1	08/22/2010 1:48 PM	9999IBHDQSU CHANNON	MATTHEW CHANNON			
170Z	LAX	ABQ	08/28/2010 1:40 PM	08/28/2010 4:30 PM	O	HK	NN	L	1	08/22/2010 1:48 PM	9999IBHDQSU CHANNON	MATTHEW CHANNON			
521	LAX	ABQ	08/28/2010 4:40 PM	08/28/2010 7:25 PM	Y	SB	SB	N	1	08/28/2010 3:54 PM	059574LAXSU CEBS	FLIGHTTRANSFER			

FULLFILLMENT STATUS

Itinerary fulfillment status is shown for the past 60 days. Go to **Fulfillment Maintenance** to reissue itinerary.

Sent	Received	Billing Name	Address	Comments	Type	Status
08/22/2010 1:49 PM	08/22/2010 1:49 PM	NZCRAN.FOGMAIL.COM		SENT	EMAIL	SUCCESS

HISTORY

Recorded 08/22/2010 1:48 PM

BOOKED ITINERARY

Flt	ORG	DST	Dep Date	Arr Date	Class	Status	Orig	Conn	PAX	Booked On	Agent	Received From	Cancelled On	XLD by Agent	XLD Recvd From
12	ABQ	LAX	08/25/2010 11:50 AM	08/25/2010 12:45 PM	O	HK	NN	B	1	08/22/2010 1:48 PM	9999IBHDQSU CHANNON	MATTHEW CHANNON			
1002	LAX	TUS	08/25/2010 1:40 PM	08/25/2010 3:00 PM	O	HK	NN	L	1	08/22/2010 1:48 PM	9999IBHDQSU CHANNON	MATTHEW CHANNON			

V 3/24/11

SWA000053

Channon 0682

BRANDI CHANNON'S
EXHIBIT

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1:13-CR-966-JCH-KK 2255 MOTION

E-mail address	Transaction Member #	Business Name	Name	Address	City	St	ZIP	Phone	Date & Time
garble1.2.345.678@gmail.com	14355888	861408574 TCH V MEDFORD ELEMENTARY SCHOOL	JAMES S FREDRICKSON	1689 PRITCHARD COURT	MEDFORD	MN	55049	5073974750	9/4/10 9:43 AM
garble1.2.345.678@gmail.com	14352946	861409058 TCH V SAN ANTONIO ELEMENTARY SCHOOL	ALFRED D SEXTON	1055 CINNAMON LANE	SAN ANTONIO	TX	78217	2108959844	9/4/10 10:40 AM
garble1.2.345.678@gmail.com	14353751	861411672 TCH V CINCINNATI ELEMENTARY SCHOOL	BERNICE R RUCKER	1501 BARNES AVENUE	CINCINNATI	OH	45216	5136755379	9/4/10 3:25 PM

PNR: DN9WV7
PAX Name: CHANNON, MATTHEW
PAX No.: 1
Agent: 9999IB
Sabre PNR:
Ticket Type: E-Ticket (SET)

Flight No.: 2594
Origin: ABQ
Destination: PVD
Agency: HDQ
Mkt Carrier: WN
Booking Source: Individual

Departure: 09/04/10
Booking Time: 10:03 PM
Agent Duty Code: SU
Code Share: N

BOOKED ITINERARY

Fit	ORG	DST	Dep Date	Arr Date	Class	Status	Orig	Conn	PAX	Booked On	Agent	Received From	Cancelled On	XLD by Agent	XLD Recvd From
2594	ABQ	PVD	09/04/2010 9:30 AM	09/04/2010 4:50 PM	T	HK	NN	B	1	08/30/2010 10:03 PM	9999IBHDOQS	MATT CHANNON			
1803	PVD	PHL	09/04/2010 5:40 PM	09/04/2010 6:55 PM	T	HK	NN	L	1	08/30/2010 10:03 PM	9999IBHDOQS	MATT CHANNON			

FULLFILLMENT STATUS

Itinerary fulfillment status is shown for the past 60 days. Go to **Fulfillment Maintenance** to reissue itinerary.

Sent	Received	Billing Name	Address	Comments	Type	Status
08/30/2010 10:04 PM	08/30/2010 10:04 PM	JRO.000@GMAIL.COM		SENT	EMAIL	SUCCESS

HISTORY

Recorded 08/30/2010 10:03 PM

BOOKED ITINERARY

Fit	ORG	DST	Dep Date	Arr Date	Class	Status	Orig	Conn	PAX	Booked On	Agent	Received From	Cancelled On	XLD by Agent	XLD Recvd From
2594	ABQ	PVD	09/04/2010 9:30 AM	09/04/2010 4:50 PM	T	HK	NN	B	1	08/30/2010 10:03 PM	9999IBHDOQS	MATT CHANNON			
1803	PVD	PHL	09/04/2010 5:40 PM	09/04/2010 6:55 PM	T	HK	NN	L	1	08/30/2010 10:03 PM	9999IBHDOQS	MATT CHANNON			

BRANDI CHANNON'S
EXHIBIT

243

1:13-CR-966-JCH-KK 2255 MOTION

V 3/24/11

SWA000072
Channon 0701

Transaction #	Member #	Date	Time	Receipt #	Business Name	Register #	Member Name	Store #	Member Address	Retail #	City
S 21831749	79619639	06/04/2010	11:47:29 AM	0000000000008332		0000000001		0451		30.00	40.20
S 21152722	79619639	06/04/2010	12:24:41 PM	0000000000008332		0000000001		0451		30.00	40.20
S 21845089	84437372	06/04/2010	12:48:42 PM	0000000000001526		0000000003		1335		30.00	40.20
13621893	860149397	06/04/2010	1:50 PM	0000000000000000	DES MOINES ELEMENTARY SCHOOL	BARGE12345678@GMAIL.COM	D ANDREWS	2079 JENNA LANE	DES MOINES IA	50309	5152418252 b. arcle12345678@gmail.com
S 21841401	796190477	06/04/2010	1:55:20 PM	0000000000005965		0000000002		0393		30.00	40.20
13621927	860149672	06/04/2010	2:03 PM	0000000000000000	CAMDEN ELEMENTARY SCHOOL	BARGE12345678@GMAIL.COM	B MARTINEZ	1118 LAKE ROAD	CAMDEN NJ	08104	6093299612 ba.rcle12345678@gmail.com
S 21841603	796164033	06/04/2010	2:22:01 PM	0000000000005586		0000000002		0426		30.00	40.20
13615170	860150034	06/04/2010	2:30 PM	0000000000000000	MANHATTAN ELEMENTARY SCHOOL	BARGE12345678@GMAIL.COM	N UPDEGRAFF	1142 HENRY FORD AVENUE	NEW YORK NY	10016	9179939817 bar.cle12345678@gmail.com
S 21842036	796147937	06/04/2010	3:26:54 PM	0000000000000057		0000000002		1313		30.00	40.20
13615179	860150859	06/04/2010	3:41 PM	0000000000000000	OKLAHOMA CITY ELEMENTARY SCHOOL	BARGE12345678@GMAIL.COM	J HOLDSWORTH	1722 RUCKMAN ROAD	OKLAHOMA CITY	73113	4057529225 band.g.le12345678@gmail.com

BRANDI CHANNON'S
EXHIBIT

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1:13-CR-966-JCH-KK 2255 MOTION



Matt Channon <matt.channon@gmail.com>

Good to see you and my resume...

Sean Scott <seanscott99@hotmail.com>
To: Matt Channon <matt.channon@gmail.com>
Cc: matt@silichem.com

Fri, Jun 4, 2010 at 2:53 PM

Matt,

Great to see you and catch up! I am exciting to learn more about your venture and hope we can see if it is a mutual fit in the very near future.

To jump start that process, I have attached my resume.

Have a great weekend and see you again soon!

Best Regards,
Sean
331.3408



Sean Scott Resume.doc
36K



Transaction #	Member #	Date	Time	Receipt # Business Name	Register # Member Name	Store # Member Address	Retail # City
13719521	860308592	06/17/2010	8:12 AM	SEARCY ELEMENTARY SCHOOL	CAROLINE R LATHAM	3022 MULBERRY AVENUE	SEARCY AR
13719611	860308754	06/17/2010	8:26 AM	BALTIMORE ELEMENTARY SCHOOL	BETSY R BYRD	1000 ROANE AVENUE	BALTIMORE MD
13719579	860308975	06/17/2010	8:40 AM	NEWVILLE ELEMENTARY SCHOOL	MARY D MESSERLY	210 QUARRY DRIVE	NEWVILLE AL
S-22157467	1795885133	06/17/2010	8:54:28 AM	10000000000007697	0000000001	0217	\$0.20
13717641	860309173	06/17/2010	9:07 AM	CHEYENNE ELEMENTARY SCHOOL	DEBORAH P PICKENS	4328 ARCHWOOD AVENUE	CHEYENNE WY
S-221657674	8647439217	06/17/2010	9:54:16 AM	10000000000007925	0000000002	0375	\$0.20
13715059	860310058	06/17/2010	10:17 AM	BRIDGEPORT ELEMENTARY SCHOOL	SALLY T BENSON	3814 COLONY STREET	BRIDGEPORT CT
S-221699381	854537518	06/17/2010	10:19:59 AM	10000000000001245	0000000003	0499	\$0.20
S-221771351	830509937	06/17/2010	10:42:45 AM	10000000000007262	0000000009	1055	\$0.20
S-221671831	820534461	06/17/2010	11:12:11 PM	10000000000005006	0000000002	1090	\$0.20
13721596	860317532	06/17/2010	5:29 PM	STOCKTON ELEMENTARY SCHOOL	BRIAN L HAGAN	2208 DENNISON STREET	STOCKTON CA
13726191	860320053	06/17/2010	8:30 PM	CORPUS CHRISTI ELEMENTARY SCHOOL	KIMBERLY C AGOSTO	2635 WASHINGTON STREET	CORPUS CHR TX
							78476
							2095101298
							bar.gle.123.45678@gmail.com
							3613789017
							bar.gle.123.45678@gmail.com

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Transaction Member #	Date	Time	Receipt + Business Name	Register + Member Name	Store + Member Address	Retail + City
S-227281327	06/13/2010	9:13:18 AM	000000000001380	0000000001	0185	\$0.00 \$0.20 20
S-227281363	06/13/2010	9:16:10 AM	000000000001381	0000000001	0185	\$0.00 \$0.20 20
S-227416053	06/13/2010	10:10:02 AM	0000000000008751	0000000003	0758	\$0.00 \$0.20 20
S-227416251	06/13/2010	10:14:21 AM	0000000000008753	0000000003	0758	\$50.00 \$50.20 21
S-227377165	06/13/2010	10:50:24 AM	0000000000009957	0000000002	1346	\$0.00 \$0.20 20
S-227421021	06/13/2010	11:37:17 AM	0000000000005159	0000000003	1502	\$0.00 \$0.20 20
S-227421184	06/13/2010	11:39:39 AM	0000000000005160	0000000003	1502	\$89.99 \$100.19 22
S-227381732	06/13/2010	12:01:08 PM	0000000000009506	0000000002	0403	\$0.00 \$0.20 20
S-227384010	06/13/2010	12:32:52 PM	0000000000009390	0000000002	0853	\$0.00 \$0.20 20
13731608	860333473	07/13/2010 12:34 PM	ALBANY ELEMENTARY SCHOOL	VICTOR A SANDERS	997 BEN STREET	ALBANY NY 12210 5182643709 b.argle.12.3.45678@gmail.com
13732397	860318733	07/13/2010 12:38 PM	NEW YORK ELEMENTARY SCHOOL	HERBERT V EVANS	3736 GENEVA STREET	NEW YORK NY 10016 9174275870 barg.12.3.45678@gmail.com
13727800	860331772	07/13/2010 12:39 PM	NEW YORK ELEMENTARY SCHOOL	JEFFERY K WHEELER	4652 PALLET STREET	NEW YORK NY 10013 9144268657 barg.12.3.45678@gmail.com
13730166	860332914	07/13/2010 12:43 PM	HOLLYRIDGE ELEMENTARY SCHOOL	FREDERICK M BENNETT	3909 RAY COURT	HOLLYRIDGE NC 28445 9103297522 barg.12.3.45678@gmail.com
13739336	860353555	07/13/2010 12:44 PM	WALSAU ELEMENTARY SCHOOL	PHIL O DUNCAN	707 ABNER ROAD	WALSAU WI 54401 7154329592 ba.rql.e1.234.5678@gmail.com
S-227314184	05/07/4566	07/13/2010 1:34:02 PM	0000000000002810	0000000001	0439	\$0.00 \$0.20 20
S-227430719	05/12/3321	07/13/2010 1:38:04 PM	0000000000005788	0000000003	1396	\$0.00 \$0.20 20
S-227460547	05/22/1131	07/13/2010 2:32:06 PM	0000000000006130	0000000004	1324	\$0.00 \$0.20 20
13733252	860334216	07/13/2010 2:36 PM	BROOKFIELD ELEMENTARY SCHOOL	JAMIE J LOPEZ	2279 HORNER STREET	BROOKFIELD OH 44403 3306669934 barg.12.3.45678@gmail.com
13742922	860354713	07/13/2010 2:42 PM	COLORADO SPRINGS ELEMENTARY SCH	PATRICIA M WILLIAMS	1729 RIVER ROAD	COLORADO SI CO 80918 7195483218 barg.12.3.45678@gmail.com
S-227333389	05/19/8986	07/13/2010 3:39:26 PM	0000000000009444	0000000001	1111	\$0.00 \$0.20 20

BRANDI CHANNON'S
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Original Channon Accounts

Account #	Business	Name	Enrollment Source
445422487	CSOL CORP	CSOL CORP	TAB
620199354	EW COPERING & CO.	EW COPERING	Act
620354481	TRIGHM LAW	TRIGHM LAW	Act
621696548	22ND CENTURY LIGHTING	TWENTYSECOND CENTURY LIGHTING	Act
622592509	DOWNTOWN AFICIONADOS	DOWNTOWN AFICIONADOS	Act
622892146	G SMITHING	G SMITHING	Act
622988178	N.G. STAPLES	N.G. STAPLES	Act
623108678	MOIRE PARTNERSHIP	MOIRE PARTNERSHIP	Act
623384144	JT FISH	JT FISH	Act
623428273	NE JOHNS	NE JOHNS	Act
623479404	BT AIRFRIARS	BT AIRFRIARS	Act
623727157	KEN CARYL MODELING	KEN CARYL MODELING	Act
623948854	DENTON AERODYNE	DENTON AERODYNE	Act
624382552	ROCKWALL C TESTING	ROCKWALL TESTING	Act
624575644	DENVER SPRING & VALVE	DENVER SPRING & VALVE	Act
625384494	HITECK OF LOVELAND	HITECK LOVELAND	Act
625396867	AZRAEL TECHWORKS	AZRAEL TECHWORKS	Act
625513685	VERDE BLUE TECHNOLOGIES	VERDE BLUE	Act
625746183	CHRISTIAN CRAFTS	CHRISTIAN CRAFTS	Act
625988195	R R EAST	R R EAST	Act
626078303	LAS CRUCES BARGAINS	LAS CRUCES BARGAINS	Act
626142168	JON & SIMONS	JON & SIMONS	Act
626576443	JONES INTERCYCLE	JONES INTERCYCLE	Act
626805442	MID RANGE GEAR	MID RANGE GEAR	Act
626822029	EE TRANSPORT	EE TRANSPORT	Act
627657447	NORTH 7TH CRANE	NORTH 7TH CRANE	Act
628493669	BASTION DINING	BASTION DINING	Act
629089772	SOUTHERN SPINTRONICS	SOUTHERN SPINTRONICS	Act
629207597	SW STEEL	SW STEEL	Act
629459324	OMICRON CONSULTANTS	OMICRON CONSULTANTS	Act

Channon 1938

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796147997	MOTRON VENTURES INC.	MOTRON VENTURES	Web
796155019	TELSPAR TELECOM	TELSPAR TELECOM	Web
796163798	DEAD DUCK DEVELOPMENT	DEAD DUCK DEVELOPMENT	Web
796164093	DELTA 3 INTERNET DESIGN	DELTA 3 INTERNET DESIGN	Web
796190477	FIGHTING FISHTAILS	FIGHTING FISHTAILS	Web
796190639	WINCHESTER HEADLIGHT	WINCHESTER HEADLIGHT	Web
796198559	SLC METRO DESK	SLC METRO DESK	Web
796198575	WATERSPOUT CINEMA	WATERSPOUT CINEMA	Web
796199474	DOS CAVRONES RESTAURANTS	DOS CAVRONES RESTAURANTS	Web
796200715	SUPREME INDUSTRIALS	SUPREME INDUSTRIALS	Web
796201258	BACKLOT DISCOUNTERS #4	BACKLOT DISCOUNTERS #4	Web
796204419	ANGRY HANK'S ROTISSERIE	ANGRY HANK'S ROTISSERIE	Web
796205679	ST. LOUIS METRODYNE	ST. LOUIS METRODYNE	Web
796207612	MMW CORP	MMW CORP	Web
796210478	GRAVITAS ENTERTAINMENT	GRAVITAS ENTERTAINMENT	Web
796212055	DISSENTERS OF MISSOURI	DISSENTERS MISSOURI	Web
796213337	SHOW ME OIL #118	SHOW ME OIL #118	Web
796215259	YARROW MONEY SERVICES	YARROW MONEY SERVICES	Web
796216433	MARIO BROTHERS RENTALS	MARIO BROTHERS RENTALS	Web
796217057	IVY LEAGUE PREP SUPPLY	IVY LEAGUE PREP SUPPLY	Web
806254517	New Account no info on 2/14/11		POS
815830717	New Account no info on 2/14/11		POS
861203719	SAN FRANCISCO ELEMENTARY SCHOOL	FRED ROSENTHAL	Web
861203832	AUSTIN ELEMENTARY SCHOOL	DEBORAH KING	Web
861203972	LAS VEGAS ELEMENTARY SCHOOL	TYLER TORREZ	Web

From: Steven Gardner [REDACTED]
Sent: Wednesday, December 23, 2015 8:43 AM
To: Moon Jr, Jeffrey P. (AQ) (FBI)
Subject: Fwd: How to Tell Enrollment Venue

Steven Gardner, CFE, CEFI

Manager - Corporate Investigations | Office Depot, Inc.

[REDACTED]



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----- Forwarded message -----

From: **Gale, Becky (shedirect)** [REDACTED]
Date: Mon, Jan 28, 2013 at 6:24 PM
Subject: How to Tell Enrollment Venue
To: "Gardner, Steven" [REDACTED]
Cc: "Boady, Michael" [REDACTED]

Hi Steve,

Both accounts were Online enrollments via the consumer did themselves. Below is a list of all enrollment sources and definitions that we thought would be helpful for your reference.

- **AAD - Admin Activation(In-store Enrollment)** - Means account was activated by a Customer Service agent prior to receiving the demos from TAB
- **ACT - Consumer Activation(In-Store Enrollment)** - Means account was activated by a member prior to receiving the demos from Tab
- **ADM - Admin Enroll** - Customer Service Admin enrolled the member online



- ASSOC – Member was enrolled thru the AssociatePerks file processing
- INSTR – Current in-store enrollment process thru POS
- Mobile – Member enrolled thru Mobile App
- POS – only received transaction thru POS. Member never accessed account online to provide demos.
- TAB – Old in-store enrollment thru paper form & process by Tab Services.
- SSO – Consumer online enrollment thru OfficeMax.com
- WEB & CONENR – Member enrollment thru online process

Thanks,

Becky

Becky Gale

Sr. Client Services Manager

SHC Direct

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From: Becky Gale
Sent: Monday, January 28, 2013 4:10 PM
To: 'Gardner, Steven'
Cc: Boady, Michael
Subject: RE: Information on Bargle connected MP account

COURT102020160931_Channon Sentencing.txt

5 And that is over at the top of page 1,002.

6 And then on 1,002:

7 "And you have no evidence that Ms. Channon
8 ever used a computer in this alleged conspiracy,
9 correct?"

10 Answer:

11 "Yeah. I have no idea whether she used a
12 computer or not."

13 Then also pertaining to Agent Brody's
14 testimony, Your Honor -- and I'll be referring to
15 pages 1,010 through -- 1,010, 1,011, 1,013 -- excuse
16 me. Yeah. 1,110, 1,111.

17 And you may remember I asked Agent Brody
18 about the search warrant affidavit and went through
19 how long the affidavit was. And I asked him if he
20 remembers it had 101 paragraphs. He answered "Yes."
21 This is page 1,110.

22 And I asked:

23 "And do you also remember that Ms. Channon
24 was mentioned in only three paragraphs?"

25 Answer:

40

1 "Yes, that's correct, sir."

2 And the next question I asked:

3 "And do you remember that you identified,
4 quote, the perpetrator of the fraud scheme was
5 Matthew Channon?"

6 Answer:

7 "Correct. That's correct, sir."

8 COURT102020160931_Channon Sentencing.txt
And I asked him

9 "Do you remember saying that the over 4,500
10 MaxPerks accounts believed to have been created by
11 Channon, meaning Matt Channon?"

12 Answer:

13 "That's correct, sir."

14 Over on page 1,111 my question to Agent

15 Brody:

16 "And it covered -- and it covered from the
17 PayPal records in eBay to creation of accounts and
18 your -- your under-oath statement was you believed
19 Matt Channon was the one behind that."

20 Answer:

21 "That's correct, sir."

22 And, Your Honor, we had Ms. Channon's --
23 evidence of Ms. Channon's statement that she provided
24 at the time that the search warrant was executed at
25 her residence. And the Court may remember that

♀

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1 ~~Ms. Channon had indicated in that statement that --~~
2 to the FBI, as testified to at trial, that she
3 indicated that whatever the FBI was there for that
4 day, that she wants to be blamed for it and it was
5 her who did it.

6 She loves her husband very much. She was
7 just at that point in time recently married.

8 And the rest of her statement -- and again,
9 I'm arguing pertaining to minor role, Your Honor --
10 is infused with her recognition of being involved,
11 according to this statement. But she admits to doing

COURT102020160931_Channon Sentencing.txt

12 things in this statement that didn't happen.

13 The evidence presented at trial, for
14 instance pertaining to the purchase of the ink, did
15 not include any testimony about Brandi Channon. Yet
16 she wants to include herself, according to the FBI
17 version of her statement, in that. And she says
18 "they."

19 But the evidence presented has no
20 involvement by her.

21 She also admitted in that statement that in
22 creating the accounts they would create these
23 accounts, quote, by hand.

24 And the evidence at trial was, of course,
25 that they were created not by hand, but by some kind

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1 of a computer program or whatever the word would be,
2 script or whatever, and that none of them were
3 created by hand.

4 So her statement -- also the reality is is
5 that of a minor role. The inaccuracies, the
6 willingness to want to join her husband, who she
7 loves very much, created some inaccuracies in her
8 statement when one looks at the evidence.

9 So she -- Ms. Channon did not have any
10 central role. She had no independent control.
11 Nothing she did was indispensable.

12 There were -- in my recollection, there
13 were some days at trial, Your Honor, where her name
14 was even barely mentioned, and Mr. Channon's is

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1 we go.

2 THE COURT: Yes?

3 MR. ROBERT: On cross-examination, if it's
4 okay with the Court, Mr. Hotchkiss is going to go
5 first and I'll go second.

6 THE COURT: That's fine.

7 MR. ROBERT: Okay.

8 (End of bench conference.)

9 THE COURT: All right. Exhibit 151 is
10 admitted.

11 MS. KASTRIN: Your Honor, we are going to
12 need to approach for the next item as well.

13 THE COURT: All right. Come forward.

14 (Bench discussion:)

15 MS. KASTRIN: So the next item we wanted to
16 bring in through her is Government's Exhibit 156,
17 which we know is the subject of an objection, and so
18 we wanted to bring it up with the Court before
19 bringing it in.

20 THE COURT: So what's 156?

21 MS. KASTRIN: 156 is -- it is notes that
22 were found -- that we will establish were found on a
23 desk inside the office. This is the -- what we have
24 called the to-do list that includes reference to a
25 Staples scrip program.

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**BRANDI CHANNON'S
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1 And this goes to our -- the theory of
2 prosecution that, in order to execute the scheme,
3 that they were -- that Defendant Matthew Channon
4 actually wrote programs to do it. And this makes
5 it -- this lends credence to our theory, when he's
6 making a note to Staples scrip program, that that is
7 something that he did.

8 MR. ROBERT: And the government's
9 misunderstanding of that word is one of the reasons
10 it shouldn't be admitted.

11 Scrip, as you probably know, is a word that
12 goes back to, well, gosh, anything -- military scrip,
13 company scrip. Scrip, without a T, is a word that
14 refers to a currency of limited distribution.

15 In other words, that's what this means.

16 THE COURT: So what does Staples scrip
17 program refer to?

18 MR. ROBERT: What Mr. Channon refers to as
19 scrip is whatever the rewards are. So he's referring
20 to company money as scrip.

21 Now, this has nothing to do with the
22 writing of a computer program.

23 Moreover, it relates to something that's
24 offered for purpose of establishing propensity rather
25 than anything legitimately admissible.

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1 And so this thing is significantly
2 prejudicial, and that it introduces Staples into the
3 mix, which we strongly object to as being violative
4 of 403 and the relevance of this.

5 So 403 takes into account the significance
6 of the probative value. If it's small, then the
7 significance of unfair prejudice doesn't have to be
8 enormous.

9 This thing has very little probative value
10 and enormous potential for unfair prejudice, and so
11 we object to it.

12 THE COURT: So --

13 MR. ROBERT: And it will confuse the jury.
14 Because if the prosecution misunderstands it, they
15 certainly will.

16 THE COURT: Okay. So you explained what
17 Staples scrip program means.

18 What does burn some scrip mean? It's
19 another reference.

20 MR. ROBERT: Spend some money.

21 THE COURT: Okay.

22 MS. KASTRIN: And so we haven't
23 misapprehended what a scrip is. We actually dropped
24 a footnote on our initial filing on this explaining
25 that we understood exactly what scrip means.

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1 MR. ROBERT: Well, then, the explanation
2 that --

3 MS. KASTRIN: The fact of a program that is
4 going to be used for Staples coupons or something of
5 limited value is exactly what we're saying makes this
6 relevant.

7 It shows he's writing a program or getting
8 some kind of program involving couponing or scrip or
9 a chit, or however you want to refer to it, involving
10 an office supply store.

11 I would note, for purposes of 403, that in
12 doing the balancing, you're supposed to give it its
13 maximum probative value against its minimum
14 reasonable prejudicial value, and that this goes to
15 MO. It goes to permissible purposes under 404(b).

16 THE COURT: Well, it sounded earlier like
17 it went to propensity. Are you saying --

18 MS. KASTRIN: Well, the fact that something
19 can go to propensity doesn't mean it's excludable
20 under 404(b). It's only excludable if it can only go
21 to propensity.

22 THE COURT: So what does it go to?

23 MS. KASTRIN: It goes to his MO. The fact
24 that we think this goes to the way that he was
25 executing this type of a scheme and using a computer

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1 and writing a program. And that -- the fact that he
2 had the knowledge and intent and opportunity to do
3 it. We've noticed it up for proper purposes.

4 The fact that something can -- you know, a
5 propensity inference can be drawn, the Tenth Circuit
6 has clearly said that it's only -- if that is the
7 only purpose for which it's offered, that it
8 shouldn't be brought in under 404(b.)

9 So we believe that we noticed it up and
10 will be offering for proper purpose.

11 We would be fine with a limiting
12 instruction, if the Court wanted to do -- if the
13 defense wants that.

14 And we don't believe that it is
15 substantially more prejudicial than it is probative.

16 MR. ROBERT: I predict that if this is
17 admitted we'll be hearing from the prosecution during
18 closing argument that that's exactly what this means.

19 And it's extraordinary to me that the
20 prosecution extrapolates such information from an
21 obviously ambiguous statement. Okay?

22 Program.

23 OfficeMax had a rewards program.

24 Staples had a rewards program.

25 That's what that program refers to.

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1 The prosecution wants to cause it to refer
2 to the writing of a computer program.

3 This highlights the confusion that this
4 introduces into this evidence. And confusing the
5 jury is not the purpose of the Rules of Evidence.

6 The 403 prejudice -- the notion of
7 propensity is a factor that the Court can consider in
8 determining whether the danger of unfair prejudice
9 exceeds probative value.

10 The import that the prosecution gives to
11 this is completely misplaced, is misunderstood, and
12 will be misunderstood by the jury, so I object.

13 THE COURT: All right.

14 MR. HOTCHKISS: I adopt what Mr. Roberts'
15 arguments are.

16 THE COURT: Anything else?

17 MS. KASTRIN: No, nothing further on this.

18 THE COURT: Well, we've heard testimony
19 about scrip. I mean, I heard Mr. Gardner talk about
20 scrip.

21 MS. KASTRIN: So that is a different
22 version, so -- he was talking about script, with a T.
23 And this is --

24 THE COURT: I wasn't clear about that.

25 MS. KASTRIN: Yeah. So he has -- there

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1 is -- I mean, I will admit that there are two words
2 that are similar in this.

3 But he has talked about rewards and
4 coupons, and that's what this scrip goes to.

5 And if they want to say that this means
6 something else, they are more than welcome to put on
7 evidence and cross-examine and do that.

8 MR. ROBERT: We shouldn't be required to
9 put on evidence in order to undo the confusion sewn
10 by the prosecution.

11 THE COURT: Well, you certainly are not
12 required to put on evidence. That, I agree with.

13 Well, clearly, propensity evidence would
14 not be admitted. But the Court understands that the
15 evidence is being offered to prove MO, motive,
16 opportunity, knowledge, things of that nature, and
17 those purposes are permitted.

18 So then the question is whether or not the
19 prejudice is -- the probative value is outweighed by
20 the prejudice.

21 And given what has -- what the Court has
22 heard thus far, I don't think that the prejudice of
23 Exhibit 156 outweighs the probative value, so the
24 Court will admit 156.

25 MS. KASTRIN: Thank you.

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6/2004-1/2005
4/14/12 COLUMBIA
DR SE



1 FR
KEMT US incl MM
ASPER Houston
velocys OH

pull credit reports
pay bills
switch insurance
eBay listing
send off letters

mysymbicort.com

253042 8/07

Astrazeneca

[Handwritten signature]



Web page
~~update slides~~
Staples scrip program
in home some scrip
~~call Mrs. Samara~~
~~fix overbook~~
IRS/taxes
eBay

CAUTION: ADRENAL INSUFFICIENCY MAY OCCUR WHEN TRANSFERRING PATIENTS FROM SYSTEMIC CORTICOSTEROIDS (see WARNINGS in accompanying full Prescribing Information).

201863



Channon 3048



Steven Gardner - Direct by Ms. Vierbuchen

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1 And then in June you have about 180 of them
2 opened.

3 And then it transitions into these Bargle
4 accounts. And these Bargle accounts continue through
5 June, July, August.

6 And then in August they transition over to
7 Garble and continue in Garble until through Sep- --
8 until September of 2010, or through there.

9 And then on the right, this column displays
10 the single highest enrollment date. What we mean is,
11 when you look at one particular date for that e-mail
12 sequence, how many accounts were opened on that day,
13 or on any -- on the highest date.

14 So in March, there was one day in March
15 where 63 teechar accounts were opened.

16 Q. How about the one where there's 97?

17 A. Yes. That's the Bargle. So in July of 2010 on
18 one day there was 97 accounts opened.

19 Q. So in one day, of the 1,001 -- well, the 1,107
20 Bargle accounts that were opened in July, 97 of those
21 1,107 were opened on a single day?

22 A. Yes.

23 Q. Did you -- did this mean anything to you?

24 A. To me, it meant that there was most likely some
25 sort of a computer script at work here. For somebody

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1 to open this many and have one person or even a
2 couple of people opening that many accounts in a day,
3 they're going to be sitting at a computer for a very
4 long period of time.

5 MS. VIERBUCHEN: The Court's indulgence for
6 one moment.

7 I would like to go back to Government's
8 Exhibit 4, please, Agent Moon, and I would like for
9 you to pull up page 31.

10 I would like to concentrate on this area
11 here, Agent Moon, that I've just circled. So if you
12 could do your best to blow it up as much as you can
13 without -- okay.

14 BY MS. VIERBUCHEN:

15 Q. I am going to ask you: What is the -- this
16 column header is supposed to be for what?

17 A. This is supposed to be for the name of the
18 person. I can highlight that.

19 Q. And I see -- go ahead.

20 A. So this, where I highlighted that half circle,
21 this supposed -- this is the name information for the
22 customer. So Steven Gardner would be in there.

23 We noticed this, where there's actually an
24 e-mail address in here, and then a name, which a
25 normal person would not do that. So we wouldn't -- I

Steven Gardner - Direct by Ms. Vierbuchen

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1 would not assume a normal person would put that in
2 there.

3 It also made us believe that, you know,
4 there's probably something going on from a computer
5 standpoint. This is more -- almost like a script,
6 maybe, putting in the wrong information.

7 MS. VIERBUCHEN: Can we go all the way over
8 just to see what e-mail chain this is associated
9 with?

10 BY MS. VIERBUCHEN:

11 Q. And so that naming convention is associated
12 with what?

13 A. Bargle.

14 Q. The Bargle e-mail?

15 A. Correct.

16 Q. Okay.

17 MS. VIERBUCHEN: Let's go to page 1 of this
18 exhibit.

19 THE COURT: Can you remove that
20 highlighting, Mr. Gardner, please?

21 MS. VIERBUCHEN: I think I just did.

22 THE COURT: You did. Yes, it's gone.

23 It's at page 1. And if you could scroll
24 down, Agent Moon.

25

Steven Gardner - Cross by Mr. Robbenhaar

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1 Q. There's no evidence to that, right?

2 A. That I would have, no.

3 Q. And individuals who made purchases that did not
4 have MaxPerks accounts, those -- those purchases
5 would never have been claimed, right?

6 A. Can you repeat that question?

7 Q. Yeah. An individual who doesn't have a
8 MaxPerks account, obviously, that person would not
9 have gone online or even at the store claimed that
10 towards his or her MaxPerks rewards account?

11 A. Yeah. If they didn't have a MaxPerks account
12 they're not going to ever claim that transaction.

13 Q. Right. So we saw evidence in this case
14 regarding individuals who had signed the -- on credit
15 card purchases, for example, the signature -- the
16 signature block?

17 A. Correct.

18 Q. Now that individual presumably didn't have a
19 MaxPerks account number, right?

20 A. I would assume they didn't. Otherwise, they --
21 they called, they wouldn't be getting credit for it.

22 Q. That individual didn't suffer any loss, right?

23 A. Not to my knowledge.

24 Q. Okay. Now, Mr. Gardner, you testified in this
25 case that -- something about a computer script versus

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1 a scrip. One, the P with -- and then the script
2 without --

3 A. I think --

4 MS. VIERBUCHEN: Objection, Your Honor.

5 That's facts not in evidence.

6 THE COURT: I don't recall it being
7 mentioned. Sustained.

8 MR. ROBBENHAAR: All right.

9 BY MR. ROBBENHAAR:

10 Q. Now, Mr. Gardner, you remember testifying about
11 this so-called Texas trip in 2011, July?

12 A. Yes, I do.

13 Q. All right. And I have a couple of questions to
14 ask you about that.

15 I believe you testified that on July 15
16 there was a purchase made -- a transaction at an
17 Albuquerque OfficeMax store?

18 A. Okay. If I -- I assume that's correct.

19 Q. Okay. If I showed you -- if I showed you an
20 exhibit, would you be able to be more clear?

21 A. Yeah.

22 Q. All right.

23 MR. ROBBENHAAR: If we could pull up 109,
24 please.

25

Enrollment Information for Group 2 Accounts (Teechur, Coach, Bargle, Garble and Elementary Accounts)								
Member ID	Business Name	Contact Name	Address	City	State	Zip	Phone	Email Address
860141493	WAYNE ELEMENTARY SCHOOL	KRISTINE D BONVEN	2295 STONE LN	WAYNE	PA	19080001	61040014308	co.sch.1.2.3.4.5.78@gmail.com
860141558	ORLANDO ELEMENTARY SCHOOL	CHARLES Y CORONDO	4128 STONEBROOK ROAD	ORLANDO	FL	32810	3215493941	co.sch.123456.78@gmail.com
860141736	DECATUR ELEMENTARY SCHOOL	WILLIAM L IVIN	1323 STROCK HILL ROAD	DECATUR	GA	30030	4046394424	co.sch.123456.78@gmail.com
860141833	DALLAS ELEMENTARY SCHOOL	HAYDEN C SANDER	804 STONEY LAKE	DALLAS	TX	75204	9729672369	co.sch.123456.78@gmail.com
860142058	DERRY ELEMENTARY SCHOOL	CRYSTAL BOGGS	4354 ELIOTT STREET	DERRY	NH	03038	6039450328	co.sch.123456.78@gmail.com
860142139	CARROLL ELEMENTARY SCHOOL	WILLIAM A HENNDON	287 CENTENNIAL PARK ROAD	CARROLL	IA	51401	7121900002	co.sch.123456.78@gmail.com
860142235	CHICAGO ELEMENTARY SCHOOL	EMMIT C HILLIGS	1327 OAKMOUND DRIVE	CHICAGO	IL	60605	7734280156	co.sch.123456.78@gmail.com
860142295	DECATUR ELEMENTARY SCHOOL	DOONALD M JACKSON	3607 COLLEGE STREET	DECATUR	GA	30030	4045739350	co.sch.123456.78@gmail.com
860142392	PHOENIX ELEMENTARY SCHOOL	BARBARA C HART	3847 COPIN AVENUE	PHOENIX	AZ	85034	6025585192	co.sch.123456.78@gmail.com
860142473	HAMMOND ELEMENTARY SCHOOL	OLIVER Y MILLER	1673 CODY RIDGE ROAD	HAMMOND	OK	73450	5804734569	co.sch.123456.78@gmail.com
860142554	REDMOND ELEMENTARY SCHOOL	WANDA M DAWSON	825 PACCOGNO RUN	REDMOND	WA	98052	2068412261	co.sch.123456.78@gmail.com
860142616	DAYTON ELEMENTARY SCHOOL	PATRICIA M SMITH	130 HARTER STREET	DAYTON	OH	45402	9376243783	co.sch.123456.78@gmail.com
860142715	NORCROSS ELEMENTARY SCHOOL	PATRICK S MOTT	144 EDINGTON DRIVE	NORCROSS	GA	30071	6782603034	co.sch.123456.78@gmail.com
860142775	FAVETTEVILLE ELEMENTARY SCHOOL	JEREMY B SAMMONS	2264 RAY COURT	FAVETTEVILLE	NC	28006	9103121156	co.sch.123456.78@gmail.com
860142813	CELEBRINE ELEMENTARY SCHOOL	JOHRANNE J WILLIAMSON	1571 CLARK STREET	CELEBRINE	TX	76031	2546779162	co.sch.123456.78@gmail.com
860142899	SAN DIEGO ELEMENTARY SCHOOL	HELEN R CHANEY	2742 POPLAR AVENUE	SAN DIEGO	CA	92117	6160600927	co.sch.123456.78@gmail.com
860142937	LITTLE ROCK ELEMENTARY SCHOOL	BARBARA B SMITH	7209 MASONIC HILL ROAD	LITTLE ROCK	AR	72099	5015158251	co.sch.123456.78@gmail.com
860142937	ALHAMBRA ELEMENTARY SCHOOL	STEVEN A CHANDLER	4367 RAINBOW ROAD	ALHAMBRA	CA	91801	6262810827	co.sch.123456.78@gmail.com
860142953	PALMER ELEMENTARY SCHOOL	CARLA S RYON	1480 TIMBERCREST ROAD	PALMER	AK	99645	9072064658	co.sch.123456.78@gmail.com
860143038	MARYVILLE ELEMENTARY SCHOOL	JIMMIE L NISIT	4407 HIDDEN POND ROAD	MARYVILLE	TN	37201	6574254543	co.sch.123456.78@gmail.com
860143937	DES MONIES ELEMENTARY SCHOOL	BANGELI2345678@gmail.com	207 JENNA LAKE	DES MONIES	IA	50309	5157418252	co.sch.123456.78@gmail.com
860143972	CAMDEN ELEMENTARY SCHOOL	BANGELI2345678@gmail.com	1176 LARK ROAD	CAMDEN	NJ	08104	6099239612	co.sch.123456.78@gmail.com
860143977	LOS ANGELES ELEMENTARY SCHOOL	BANGELI2345678@gmail.com	1135 PROSPECT VALLEY ROAD	LOS ANGELES	CA	90017	3108952831	co.sch.123456.78@gmail.com
860150034	MANHATTAN ELEMENTARY SCHOOL	BANGELI2345678@gmail.com	1142 HENRY FORD AVENUE	NEW YORK	NY	10016	9179398817	co.sch.123456.78@gmail.com
860150212	EVANSVILLE ELEMENTARY SCHOOL	BANGELI2345678@gmail.com	1394 CARPARK ROAD	EVANSVILLE	IN	47108	8122536872	co.sch.123456.78@gmail.com
860150395	SPANISH FLOR ELEMENTARY SCHOOL	BANGELI2345678@gmail.com	4133 LONELY OAK DRIVE	SPANISH FLOR	AL	36527	2516250973	co.sch.123456.78@gmail.com
860150564	STANLEY ELEMENTARY SCHOOL	BANGELI2345678@gmail.com	2623 CORMAN ALEY	STANLEY	CA	42375	2207564124	co.sch.123456.78@gmail.com
860150889	OKLAHOMA CITY ELEMENTARY SCHOOL	BANGELI2345678@gmail.com	1172 ROCKMAN ALEY	OKLAHOMA CITY	OK	73113	4057549225	co.sch.123456.78@gmail.com
860163279	DURHAM ELEMENTARY SCHOOL	MARGARET D GELKACH	419 STAFFORD COURT	DURHAM	NC	27713	9196852099	co.sch.123456.78@gmail.com
860163333	RICHMOND ELEMENTARY SCHOOL	DANIEL L JOHNSON	3039 COUTLER LAKE	RICHMOND	VA	23274	8042336958	co.sch.123456.78@gmail.com
860163655	BIRMINGHAM ELEMENTARY SCHOOL	REGGIE M RULUS	1127 BROOKSIDE DRIVE	BIRMINGHAM	AL	35203	2055431074	co.sch.123456.78@gmail.com
860163678	PUEBLO ELEMENTARY SCHOOL	ANDREA D CHRISTENSEN	1317 BERRY STREET	PUEBLO	CO	81103	7093947679	co.sch.123456.78@gmail.com
860163937	CANDERS ELEMENTARY SCHOOL	MARY L LARUS	3280 HANNAH STREET	CANDERS	NY	12801	8283215644	co.sch.123456.78@gmail.com
860163972	CEGAR CITY ELEMENTARY SCHOOL	CHRIS L JOHNSON	4243 LANG AVENUE	CEGAR CITY	UT	84720	4358562616	co.sch.123456.78@gmail.com
860170022	BIRMINGHAM ELEMENTARY SCHOOL	MARINA E LITTLE	1173 STROTHER STREET	BIRMINGHAM	AL	35212	2055927406	co.sch.123456.78@gmail.com
860170153	DENVER ELEMENTARY SCHOOL	ARTHUR L MALVEAUX	1977 SNIDER STREET	DENVER	CO	80205	7201139800	co.sch.123456.78@gmail.com
860170277	SAINT PAUL ELEMENTARY SCHOOL	RENE K NELSON	3575 B STREET	SAINT PAUL	MN	55105	6519862186	co.sch.123456.78@gmail.com
860170358	WASHINGTON ELEMENTARY SCHOOL	JEFFREY V SAX	668 GODDULPH CIRCLE	WASHINGTON	DC	20032	2025648923	co.sch.123456.78@gmail.com
860170455	RIO VISTA ELEMENTARY SCHOOL	ANNEE J SANTOS	1412 WALDICE STREET	RIO VISTA	TX	76093	8173730244	co.sch.123456.78@gmail.com
860170631	CONCORD ELEMENTARY SCHOOL	DAVID R LONG	3249 SHEARWOOD FOREST DRIVE	CONCORD	NH	03301	6032528589	co.sch.123456.78@gmail.com
860170714	SHEBOGAN FALLS ELEMENTARY SCHOOL	DAVID R GULMHER	1288 JOSEPH STREET	SHEBOGAN FALLS	WI	53081	2629502973	co.sch.123456.78@gmail.com
860170854	CHASSILL ELEMENTARY SCHOOL	JAY N NEWMAN	4785 WOOD DUCK DRIVE	CHASSILL	WI	49916	9064811936	co.sch.123456.78@gmail.com
860170935	PLEASANTVILLE ELEMENTARY SCHOOL	EDWARD K SUMMERS	1334 WATSON STREET	PLEASANTVILLE	AR	06832	6097612402	co.sch.123456.78@gmail.com
860171052	RUSSELLVILLE ELEMENTARY SCHOOL	BARBARA J SCARBOROUGH	32498 CAMBRIDGE COURT	RUSSELLVILLE	AR	72767	4795866301	co.sch.123456.78@gmail.com
860171133	OAKLAND ELEMENTARY SCHOOL	ANGELA P PALMER	566 CLIFFORD STREET	OAKLAND	CA	94612	5108484722	co.sch.123456.78@gmail.com
860171192	CHICAGO ELEMENTARY SCHOOL	SCOTT B GRIFFIN	2109 TATON PATCH ROAD	CHICAGO	IL	60615	3128804000	co.sch.123456.78@gmail.com
860171419	DAYENPORT ELEMENTARY SCHOOL	HAROLD N GIST	948 STUART STREET	SENICKLEY	PA	15143	7244117259	co.sch.123456.78@gmail.com
860171478	BIRMINGHAM ELEMENTARY SCHOOL	MARNA J COOK	2735 LONGTOWN ROAD	DAYENPORT	IA	52804	5638323473	co.sch.123456.78@gmail.com
860171575	BIRMINGHAM ELEMENTARY SCHOOL	SHARON B PIERCE	1303 STROTHER STREET	BIRMINGHAM	AL	35203	2056054381	co.sch.123456.78@gmail.com
860171699	BIRMINGHAM ELEMENTARY SCHOOL	WILLIAM M BAINTER	4834 JADWOOD DRIVE	BIRMINGHAM	IN	46023	2195938420	co.sch.123456.78@gmail.com
860171877	GARY ELEMENTARY SCHOOL	KENNETH D KNOWLES	2914 PINNICKICK STREET	GARY	WA	98501	3607890505	co.sch.123456.78@gmail.com
860171958	OLYMPIA ELEMENTARY SCHOOL	ANNEE M OLIVE	4823 RICHLAND AVENUE	OLYMPIA	CA	95017	8184203799	co.sch.123456.78@gmail.com
860172156	SUGAR LAND ELEMENTARY SCHOOL	JANET N MONCRIEF	4050 TWELVE STREET	SUGAR LAND	TX	77487	2813402239	co.sch.123456.78@gmail.com
860172769	JACKSON ELEMENTARY SCHOOL	JANICA A FEDERIO	4403 TYLER AVENUE	JACKSON	FL	38301	3052854483	co.sch.123456.78@gmail.com
860172857	MIAMI ELEMENTARY SCHOOL	ANNA D GEORGE	3726 OAK DRIVE	MIAMI	NY	12144	5186100385	co.sch.123456.78@gmail.com
860172997	NORTH GREENBUSH ELEMENTARY SCHOOL	GARY E CRAIG	1470 FAIRFILD ROAD	RENSSELAER	WI	53202	2826727084	co.sch.123456.78@gmail.com
860173039	MILWAUKEE ELEMENTARY SCHOOL	INA M JACKSON	1098 MURPHY COURT	MILWAUKEE	MN	55121	9522018545	co.sch.123456.78@gmail.com
860173098	EAGAN ELEMENTARY SCHOOL	MAVIS D WALDON	138 HARRISON STREET	SAN FRANCISCO	CA	94105	41553919970	co.sch.123456.78@gmail.com
860173152	SAN FRANCISCO ELEMENTARY SCHOOL	LORENE J LEIST	3420 BARRINGTON COURT	LITTLE ROCK	AR	72212	8705494360	co.sch.123456.78@gmail.com
860173195	LITTLE ROCK ELEMENTARY SCHOOL	MABLE J WASHINGTON						

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Member ID	Business Name	Contact Name	Enrollment Information for Group 2 Accounts (Teacher, Coach, Bargle, Garble and Elementary Accounts)	Address	City	State	Zip	Phone	Email Address
86066135	LAS VEGAS ELEMENTARY SCHOOL	TIM L HOWARD	3423 SUNSHINE ROAD	LAS VEGAS	NV	89119	7028095329		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066275	LAKE CHARLES ELEMENTARY SCHOOL	BARGLE12345678@GMAIL J GARRETT	4970 SARAH DRIVE	LAKE CHARLES	LA	86314	3372821862		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066278	FORT WORTH ELEMENTARY SCHOOL	CURTIS A HUNT	2803 BAKER AVENUE	FORT WORTH	TX	76102	8178334817		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066518	CINCINNATI ELEMENTARY SCHOOL	SEAN J ALLEN	2754 WALNUT HILL DRIVE	CINCINNATI	OH	45230	5133232428		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066697	EAST LANSING ELEMENTARY SCHOOL	RICHARD C MOFFITT	3880 JOHN AVENUE	EAST LANSING	MI	48823	5178074299		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860666014	MOOREHEAD ELEMENTARY SCHOOL	DAVID C ROGER	333 KHALI STREET	MOOREHEAD	SC	29578	843652447		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860666332	DAVISON ELEMENTARY SCHOOL	JOHN N WILSON	677 PERRY STREET	DAVISON	MI	48423	8106534825		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066738	SUGAR LAND ELEMENTARY SCHOOL	SHANE S WILLIAMSON	1064 MICHAEL STREET	SUGAR LAND	TX	77478	7137387966		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066746	FAIRFAX ELEMENTARY SCHOOL	VIDUA R WOLTERS	7268 LUCY DUCK DRIVE	FAIRFAX	VA	15222	4128749560		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066753	ARLINGTON HEIGHTS ELEMENTARY SCHOOL	BARGLE12345678@GMAIL V HAWKIN	1940 ASHORD DRIVE	ARLINGTON HEIGHTS	IL	60005	7036917166		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066795	FAVETTEVILLE ELEMENTARY SCHOOL	JAMES P LATHAM	1749 JUDWOOD DRIVE	FAVETTEVILLE	NC	28801	3195048300		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066824	ATLANTA ELEMENTARY SCHOOL	JOHN J GREER	3748 JENNIFER LANE	ATLANTA	GA	30303	7702015332		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066832	ANCHORAGE ELEMENTARY SCHOOL	ROTH V LARSON	2639 FOWER AVENUE	ANCHORAGE	AK	99504	907297835		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066859	SAINT CLAIRSVILLE ELEMENTARY SCHOOL	ELISE D STOWE	3668 ROBINSON LANE	SAINT CLAIRSVILLE	OH	43950	7403815408		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066912	RENO ELEMENTARY SCHOOL	MICHAEL J WILLIAMSON	774 GRAND AVENUE	RENO	NV	89501	7752059667		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860669137	ROCKFORD ELEMENTARY SCHOOL	JODY R MCCAIN	4937 ROCKFORD ROAD	ROCKFORD	IL	61101	8156565732		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860669277	SEATTLE ELEMENTARY SCHOOL	RUSSELL A GRENE	2211 MATTHEWS STREET	SEATTLE	WA	98121	3662282677		b.a.r.g.l.e.1.23.4.5.678@gmail.com
86066936	SODDUBURY ELEMENTARY SCHOOL	GARY B AUGUST	3231 UNION STREET	SODDUBURY	MA	01768	9785074608		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860670119	SAN FRANCISCO ELEMENTARY SCHOOL	JOHANN R HOLLIDAY	3358 JOANNE LANE	SAN FRANCISCO	CA	94108	4153525711		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860670135	AUGUSTA ELEMENTARY SCHOOL	JOSEPH M HOWES	4024 RIVERSIDE DRIVE	AUGUSTA	GA	30601	7066487417		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860670275	MINNEAPOLIS ELEMENTARY SCHOOL	JAYME B MATES	1868 JEWELL ROAD	MINNEAPOLIS	MN	55417	6127258995		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860670312	REDMOND ELEMENTARY SCHOOL	DYAN D SEMOUR	737 CHARDONWAY DRIVE	REDMOND	WA	98052	3602502648		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860670712	MANCHESTER ELEMENTARY SCHOOL	MARION J KHAN	1357 GRASSHILL STREET	MANCHESTER	NH	03101	6034597860		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860670852	CARIBOU ELEMENTARY SCHOOL	NICOLE L GREIFF	3254 VICTORIA COURT	CARIBOU	ME	04736	2074823814		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671018	LONGVIEW ELEMENTARY SCHOOL	JERRY C GRANETTE	4473 THURSH TRAIL	LONGVIEW	TX	75604	9035634281		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671093	LEAVENWORTH ELEMENTARY SCHOOL	BARGLE12345678@GMAIL M LOPEZ	1035 SUN VALLEY ROAD	LEAVENWORTH	WA	98926	5097638177		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671239	CHICAGO ELEMENTARY SCHOOL	BARGLE12345678@GMAIL B HADERMAN	4425 DOWNEY DRIVE	CHICAGO	IL	60605	8472423297		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671332	LAWRENCE ELEMENTARY SCHOOL	MARY D SHREFFORD	4425 PEARLHAW AVENUE	LAWRENCE	MA	01840	9782423297		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671417	NEWPORT ELEMENTARY SCHOOL	DEANNA R MATTHEWS	55 MEAD STREET	NEWPORT	RI	02840	4012145010		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671514	IRVINE ELEMENTARY SCHOOL	FELICIA C THORN	394 NORMANS STREET	IRVINE	CA	92614	32332329511		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671638	HUNTINGTON ELEMENTARY SCHOOL	JENNIFER B METCALF	4822 GROVE STREET	HUNTINGTON	NY	11743	6318353537		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671719	WASHINGTON ELEMENTARY SCHOOL	JOSHUA S BROWN	3929 GOLD CIRCLE	WASHINGTON	DC	20009	2025576050		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671778	ATLANTA ELEMENTARY SCHOOL	DARIN L LAMER	858 CLEMENT STREET	ATLANTA	GA	30331	4044726606		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671816	BETHESDA ELEMENTARY SCHOOL	PAULINE N BARTON	3005 DEL DEW DR	BETHESDA	MD	20892	3018275759		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860671859	DALLAS ELEMENTARY SCHOOL	BARGLE12345678@GMAIL B BARGLE	2317 MOORE AVENUE	DALLAS	TX	75204	817709921		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672057	BARRYVILLE ELEMENTARY SCHOOL	BETTY R GREER	3623 SCOTT STREET	BARRYVILLE	NY	13719	845575118		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672138	NEWARK ELEMENTARY SCHOOL	MARY B OBRIEN	1327 LANEWOOD DRIVE	NEWARK	NJ	07102	9542373056		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672219	JACKSONVILLE ELEMENTARY SCHOOL	PATRICIA C BROWN	2827 STACOMBE FORK ROAD	JACKSONVILLE	NC	28540	9103873032		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672235	MIDLAND ELEMENTARY SCHOOL	GERALD T THEINNA	4388 LYNAN AVENUE	MIDLAND	TX	79701	4328257758		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672294	LYMAN ELEMENTARY SCHOOL	JAMES J CARROLL	1127 SOUTH STREET	LYMAN	SC	29365	8649498455		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672394	COCKA ELEMENTARY SCHOOL	MARION F HARGETT	121 STONEBROOK ROAD	COCKA	FL	32922	3215026656		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672399	WORCESTER ELEMENTARY SCHOOL	ANGELIO C MORE	4259 STANTON HOLLOW ROAD	WORCESTER	MA	01610	7815359020		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672413	SAN FRANCISCO ELEMENTARY SCHOOL	DORA M CAVE	2419 LYNCH STREET	SAN FRANCISCO	CA	94107	9252412030		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672456	PALESTINE ELEMENTARY SCHOOL	BESSIE C HOOK	3228 MOONLIGHT DRIVE	PALESTINE	NJ	08230	6096246053		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672537	BROOKFIELD ELEMENTARY SCHOOL	MIMI D DELOSANTOS	2561 CLAY LICK ROAD	BROOKFIELD	CO	80020	7205583535		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672553	PENNS GROVE ELEMENTARY SCHOOL	RICHARD M BOWLING	372 LEE AVENUE	PENNS GROVE	NJ	08069	8565314653		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672618	BIRMINGHAM ELEMENTARY SCHOOL	JOYCELYN D SWINER	1497 OAK LANE	BIRMINGHAM	AL	35212	2057702100		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672677	SPRINGFIELD ELEMENTARY SCHOOL	HEATHER A BROWN	4086 THOUSAND LEE ROAD	SPRINGFIELD	MA	01103	4138818610		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672715	NEWARK ELEMENTARY SCHOOL	PHILIP K VOIZ	3484 CALISON LANE	NEWARK	DE	19714	3024833531		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672829	RANCHO CUCAMONGA ELEMENTARY SCHOOL	ELIUE D PERE	451 CLARENCE COURT	RANCHO CUCAMONGA	CA	91720	9099441814		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672888	FT LAUDERDALE ELEMENTARY SCHOOL	STANLEY C LEHR	104 LIVERTON COVE ROAD	FT LAUDERDALE	FL	33311	4133527891		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860672979	FT LAUDERDALE ELEMENTARY SCHOOL	LUCILLE E NIELSEN	4881 RINEHART ROAD	FT LAUDERDALE	FL	33311	7864739038		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860673096	NEW YORK ELEMENTARY SCHOOL	SCOTT K JEFFERSON	1729 BUTENUT LANE	NEW YORK	NY	10038	6185546016		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860673215	ABERDEEN ELEMENTARY SCHOOL	CATHY C BIAZ	744 SMALL STREET	ABERDEEN	WA	98520	3128043190		b.a.r.g.l.e.1.23.4.5.678@gmail.com
860673339	BOSTON ELEMENTARY SCHOOL	LUCIE M SMITH	619 FERRIS STREET	BOSTON	MA	02110	5084949782		b.a.r.g.l.e.1.23.4.5.678@gmail.com

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Enrollment Information for Group 2 Accounts (Teechur, Coach, Bargle, Garble) and Elementary Accounts									
Member ID	Business Name	Contact Name	Address	City	State	Zip	Email Address	BRAND C EXH	25
86070394	FRESNO ELEMENTARY SCHOOL	DIANE B MERCADO	3461 HERITAGE ROAD	FRESNO	CA	93721	5596829248	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
86070352	SACRAMENTO ELEMENTARY SCHOOL	THELMA J HARRIS	1868 HILLVIEW DRIVE	FRESNO	CA	95814	7072015620	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
86070874	EDEN PEABEY ELEMENTARY SCHOOL	WICHEL L THORNS	4467 ORCHARD STREET	EDEN PEABEY	CA	95844	9529030620	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
86070403	GRAND RAPIDS ELEMENTARY SCHOOL	MAGGIE L BERG	867 TWIN OAKS DRIVE	GRAND RAPIDS	MI	49503	1231635755	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
86070493	HOUSTON ELEMENTARY SCHOOL	JOHN P MOORE	407 GORE STREET	HOUSTON	TX	77027	7135956354	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
86070452	PORT WORTH ELEMENTARY SCHOOL	JAMES J FITZGERALD	1949 BAKER AVENUE	PORT WORTH	TX	76102	8178106963	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
86070477	DOUBLE SPRINGS ELEMENTARY SCHOOL	BRENDA E GARDNER	1623 RETREAT AVENUE	DOUBLE SPRINGS	AL	35553	2052737318	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860705214	MASSON ELEMENTARY SCHOOL	CHARLES K HANNON	674 DARK HOLLOW ROAD	MASSON	WI	53718	6089214973	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
86070538	SPRINGFIELD ELEMENTARY SCHOOL	TREVOR S SHAH	739 TROUSLER EGG ROAD	SPRINGFIELD	MA	01103	4138855468	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860705516	SAGINAW ELEMENTARY SCHOOL	EVELYN J HAGEN	2151 RIPLEY STREET	SAGINAW	MI	48607	9996966661	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860707564	1210 WESTFALL AVENUE ELEMENTARY SCHOOL	HELEN H WILLIS	1210 WESTFALL AVENUE	1210 WESTFALL AVENUE	NM	87102	5059757655	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860708213	SCOTTSDALE ELEMENTARY SCHOOL	SALLY J GRADY	768 ELWOOD AVENUE	SCOTTSDALE	AZ	85231	4680404010	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860708396	NONKROSS ELEMENTARY SCHOOL	ROBERT J DECARMO	4741 EIK CREEK ROAD	NONKROSS	GA	30071	7704904827	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860708639	POLO ELEMENTARY SCHOOL	GENE O SMITH	1091 MEMORY LANE	POLO	IL	61064	8155464806	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860708736	ORLANDO ELEMENTARY SCHOOL	ROBERTO T PIPE	1146 GRAND AVENUE	ORLANDO	FL	32810	4077914662	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860708833	MURRAY ELEMENTARY SCHOOL	JUNE L FONSECA	852 HICKORY STREET	MURRAY	UT	84107	8016964443	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860708937	BOSTON ELEMENTARY SCHOOL	BRENT C FRANKLIN	3178 HUNZL LANE	BOSTON	MA	02210	9786002653	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860708973	MILWAUKEE ELEMENTARY SCHOOL	HARDEN E BATE	3584 JOHNNY LANE	MILWAUKEE	WI	53225	4130696355	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860709112	ORVILLE ELEMENTARY SCHOOL	KATHERINE GLASS	568 WINDWOOD STREET	ORVILLE	OH	44667	3306823951	b.a.r.g.l.e.1.23456.78@gmail.com	07/18/2010
860709198	OAKLEY ELEMENTARY SCHOOL	LINDA A MCEVOY	450 ALEXANDER AVENUE	OAKLEY	CA	94561	9356254027	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709279	SPRINGFIELD ELEMENTARY SCHOOL	ROBERT M HOFFMAN	4633 LIVERPOOL COVE ROAD	SPRINGFIELD	MA	01103	4138788374	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709295	BETHPAGE ELEMENTARY SCHOOL	WILLIAM E FORD	2612 GERALDINE LANE	BETHPAGE	NY	11714	6467396217	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709333	EL CAJON ELEMENTARY SCHOOL	BARGLE12345678@GMAIL.COM	736 COLEMAN AVENUE	EL CAJON	CA	92020	76079890170	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709414	TAMPA ELEMENTARY SCHOOL	ROSANNE H CARL	4624 ETHELS LANE	TAMPA	FL	33602	8638359392	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709538	JASPER ELEMENTARY SCHOOL	GENEVIEVE R PHILLIPS	1675 RETREAT AVENUE	JASPER	AL	35501	2052072061	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709554	STEPHENVILLE ELEMENTARY SCHOOL	FATIMAH S SERRO	30 BEIGHTLEY STREET	STEPHENVILLE	TX	76401	3249182602	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709635	OCEOLA ELEMENTARY SCHOOL	CHANDRA E WALKER	4004 SAND FORD ROAD	OCEOLA	IN	46561	7346516644	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709716	NEENAH ELEMENTARY SCHOOL	ROBERT C LEE	3251 ROBINSON LANE	3251 ROBINSON LANE	OH	44355	5203667645	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709732	BUPROD ELEMENTARY SCHOOL	JARON R ROLLER	3261 ADOAMS WAY	BUPROD	GA	30518	6784820477	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709775	DULUTH ELEMENTARY SCHOOL	DEAN R GILBERT	1060 DUNPORT LANE	DULUTH	GA	30097	7703143478	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709813	DARINGTON ELEMENTARY SCHOOL	BRAD T MAHER	4391 BOONE CHICKETT LANE	DARINGTON	WA	98241	3604367358	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709856	SAVIE ELEMENTARY SCHOOL	KEVIN A ROTZ	793 CONFERENCE CENTER WAY	SAVIE	PA	18840	5750825900	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709872	NONKROSS ELEMENTARY SCHOOL	BARGLE12345678@GMAIL.C	738 ADOAMS WAY	NONKROSS	GA	30071	67584859309	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709937	RUSH CENTER ELEMENTARY SCHOOL	LARRY T RODRIGUEZ	2781 SHERMAN STREET	RUSH CENTER	KS	67575	7858481136	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709953	NEW YORK ELEMENTARY SCHOOL	ARTHUR C CARVER	3275 ROSEWOOD LANE	NEW YORK	NY	10013	31239660928	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860709966	JACKSON ELEMENTARY SCHOOL	LANCE LGAY	837 WALNUT STREET	JACKSON	MS	39201	50519860928	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710056	CAMDEN ELEMENTARY SCHOOL	MINE C CONKLER	165 VALLEY STREET	CAMDEN	NJ	08102	8565808777	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710072	WICHTIA ELEMENTARY SCHOOL	HA M ESYF	2626 HENRY STREET	WICHTIA	TX	67202	31689889401	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710099	COLUMBUS ELEMENTARY SCHOOL	ANNA R SAWYER	3098 JAMES MARLIN CIRCLE	COLUMBUS	OH	43215	6143471446	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710137	CLEUNINE ELEMENTARY SCHOOL	JUDY B HUNTHORNE	1131 SYCAMORE CIRCLE	CLEUNINE	TX	76031	66286603937	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710156	SACRAMENTO ELEMENTARY SCHOOL	PAULINE T GOLDMAN	682 EAGLES NEST DRIVE	SACRAMENTO	CA	95814	5306862837	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710277	MADISON ELEMENTARY SCHOOL	DANA R ANDERSON	4672 DARK HOLLOW ROAD	MADISON	WI	53703	6089793610	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710315	DENVER ELEMENTARY SCHOOL	BETTY H DORSEY	355 MCCLINCK AVENUE	DENVER	CO	80209	3203765119	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710439	EL PASO ELEMENTARY SCHOOL	JUNE WILKONG	4036 REDBICK STREET	EL PASO	TX	79906	9159207014	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710536	CONCORD ELEMENTARY SCHOOL	ALICE W MINOR	2315 HAMPTON MEADOWS	CONCORD	MA	01742	97831898928	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710595	EAST LANSING ELEMENTARY SCHOOL	DORIS C OWENS	4948 BEN STREET	EAST LANSING	MI	48233	51793851960	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710676	HAMPTON ELEMENTARY SCHOOL	CRISTA C SMITH	1477 LOCHEMINE LANE	HAMPTON	CT	06439	86005512670	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860710838	1424 OAK AVENUE ELEMENTARY SCHOOL	BARGLE12345678@GMAIL.B	1424 OAK AVENUE	1424 OAK AVENUE	IL	60606	9479461397	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860711052	WALNUT CREEK ELEMENTARY SCHOOL	BARGLE12345678@GMAIL.B	3848 BIRCHWAY STREET	3848 BIRCHWAY STREET	CA	94566	9259030236	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860711257	COCOA ELEMENTARY SCHOOL	GRADY E CARLIE	1289 STONERBROOK STREET	COCOA	FL	32922	32193034483	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860711454	HOUSTON ELEMENTARY SCHOOL	ELAINE K CHRISTENSEN	3571 WENINGER STREET	HOUSTON	TX	77027	83273433379	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860712032	ALBANY ELEMENTARY SCHOOL	RED S BEUCHAMP	4123 OES ROAD	ALBANY	NV	12107	51827137890	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860712237	GREENWOOD ELEMENTARY SCHOOL	DAVID P LOHR	2088 MILL STREET	2088 MILL STREET	SC	29646	8642328864	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860713535	PALM DESERT ELEMENTARY SCHOOL	ANNA T GEBORI	7718 WILSON STREET	PALM DESERT	CA	92780	76086678356	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860713857	CLEVELAND ELEMENTARY SCHOOL	NADINE J BERGSTROM	1040 SUNNY GLEN LANE	CLEVELAND	OH	44115	21666705642	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860713535	HAMMOND ELEMENTARY SCHOOL	JOSHUA H LUDAS	4560 JADEWOOD DRIVE	HAMMOND	IN	46323	21939896609	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860714035	NEW ORLEANS ELEMENTARY SCHOOL	HELEN M NELSON	4826 WOODLAND AVENUE	NEW ORLEANS	LA	70113	9857134468	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860714473	LITTLE FALLS ELEMENTARY SCHOOL	BARGLE12345678@GMAIL.C	3757 DRUMMOND STREET	LITTLE FALLS	CA	92702	9732373166	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860714473	ANNAMHE ELEMENTARY SCHOOL	JACOB D PRINCEJA	1186 HERSHILL HOLLOW ROAD	ANNAMHE	CA	92801	41246346622	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860714473	NEW YORK ELEMENTARY SCHOOL	WESLEY P BEUSE	1133 GENOVA STREET	NEW YORK	NY	10016	97124486391	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010
860714736	ST GEORGE ELEMENTARY SCHOOL	DANIELLE C WHITLEY	2250 COUNTRY LINE ROAD	ST GEORGE	FL	34683	7727812804	b.a.r.g.l.e.1.23456.78@gmail.com	07/19/2010

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Member ID	Business Name	Contact Name	Address	City	State	Zip	Phone	Email Address
796582774	NEW YORK ELEMENTARY SCHOOL	PAAMELIA D. DIGGINANO	1975 ROSWOOD LANE	NEW YORK	NY	10021	2129882244	teechu.r.1.2.3.4.5.6.78@gmail.com
796582936	WASHINGTON ELEMENTARY SCHOOL	MELISSA D. WILDERMUTH	3574 MASSACHUSETTS AVENUE	WASHINGTON	DC	20024	2026928107	teechu.r.1.2.3.4.5.6.78@gmail.com
796583134	PHOENIX ELEMENTARY SCHOOL	VINCENT N. ZEJINSKI	518 DYE STREET	PHOENIX	AZ	85034	4806882936	teechu.r.1.2.3.4.5.6.78@gmail.com
796583238	SOUTH BURLINGTON ELEMENTARY SCHOOL	TAMMY B. CASILLAS	1013 DUFF AVENUE	SOUTH BURLINGTON	VT	05403	8025291253	teechu.r.1.2.3.4.5.6.78@gmail.com
796583339	MONTGOMERY ELEMENTARY SCHOOL	DOAN G. LONG	1809 WILLOW GREENE DRIVE	MONTGOMERY	AL	36116	3342889938	teechu.r.1.2.3.4.5.6.78@gmail.com
796583432	GARDEN CITY ELEMENTARY SCHOOL	REBECCA R. MARTIN	1808 W. DRIVE	GARDEN CITY	NY	11550	5162329948	teechu.r.1.2.3.4.5.6.78@gmail.com
796583534	SOUTH BEAD ELEMENTARY SCHOOL	GEORGE C. RODRIGUEZ	1009 VILLA DRIVE	SOUTH BEAD	IN	46601	5742838740	teechu.r.1.2.3.4.5.6.78@gmail.com
796583835	SOUTHERN ELEMENTARY SCHOOL	ANNE E. BAKES	1123 LAKELAND TERRACE	SOUTHERN	MI	48075	7343571750	teechu.r.1.2.3.4.5.6.78@gmail.com
796583916	FORT LAUDERDALE ELEMENTARY SCHOOL	FRANCIS J. JARRETT	2935 THALES FORD ROAD	FORT LAUDERDALE	FL	33301	9542695812	teechu.r.1.2.3.4.5.6.78@gmail.com
796584114	HICKORY HILLS ELEMENTARY SCHOOL	CHRISTIAN T. PHILLIPS	4194 WALKERS RIDGE WAY	HICKORY HILLS	IL	60457	6302695480	teechu.r.1.2.3.4.5.6.78@gmail.com
796584319	KELLER ELEMENTARY SCHOOL	JULIA D. JONES	1255 SUNNY DAY DRIVE	KELLER	TX	76248	8177455681	teechu.r.1.2.3.4.5.6.78@gmail.com
796584513	BROOKINGS ELEMENTARY SCHOOL	RICHARD E. JUNG	7024 MOORE AVENUE	BROOKINGS	SD	57006	6053698019	teechu.r.1.2.3.4.5.6.78@gmail.com
796584637	ANNAPOLIS ELEMENTARY SCHOOL	JOHN H. GREENE	12457 BOTTOM LANE	ANNAPOLIS	MD	21401	7167988019	teechu.r.1.2.3.4.5.6.78@gmail.com
796584734	SEATTLE ELEMENTARY SCHOOL	RICHARD D. RUSHING	4986 ROANE AVENUE	SEATTLE	WA	98101	2064776844	teechu.r.1.2.3.4.5.6.78@gmail.com
796584874	GARLAND RAPIDS ELEMENTARY SCHOOL	MARY D. FLECK	1094 LAKE ROAD	GARLAND RAPIDS	MI	49502	6163632916	teechu.r.1.2.3.4.5.6.78@gmail.com
796584912	GREEN BAY ELEMENTARY SCHOOL	ANITA D. WILSON	2283 BENSON STREET	GREEN BAY	WI	54303	7152177684	teechu.r.1.2.3.4.5.6.78@gmail.com
796584955	FLORENCE ELEMENTARY SCHOOL	PHYLIS D. BRANDON	502 YASH STREET	FLORENCE	AL	36630	2563499717	teechu.r.1.2.3.4.5.6.78@gmail.com
796584998	SAN ANTONIO ELEMENTARY SCHOOL	RICKEY C. PAULING	888 TURNPIKE DRIVE	SAN ANTONIO	TX	78205	2103694075	teechu.r.1.2.3.4.5.6.78@gmail.com
796585056	SCOTTSDALE ELEMENTARY SCHOOL	PATRICIA N. WILIS	2085 WEELEY STREET	SCOTTSDALE	AZ	85251	48099477061	teechu.r.1.2.3.4.5.6.78@gmail.com
796585099	HONOLULU ELEMENTARY SCHOOL	DANIEL L. BROWN	955 ELMWOOD AVENUE	HONOLULU	HI	96819	8088535412	teechu.r.1.2.3.4.5.6.78@gmail.com
796585218	MANAKTO ELEMENTARY SCHOOL	BEVERLY W. FREEMAN	3263 RIMMALL DRIVE	MANAKTO	MT	59601	5072925458	teechu.r.1.2.3.4.5.6.78@gmail.com
796585277	DENVER ELEMENTARY SCHOOL	HAROLD PARK	553 RAMORE ROAD	DENVER	CO	80202	7208823558	teechu.r.1.2.3.4.5.6.78@gmail.com
796585455	EAST SAINT LOUIS ELEMENTARY SCHOOL	JULIE D. JONES	2874 ROSS STREET	EAST SAINT LOUIS	IL	62011	6182611651	teechu.r.1.2.3.4.5.6.78@gmail.com
796585654	CHICAGO ELEMENTARY SCHOOL	RICHARD A. DUVAL	3203 PATTERSON FORK ROAD	CHICAGO	IL	60654	3126837031	teechu.r.1.2.3.4.5.6.78@gmail.com
796585692	CAMDEN ELEMENTARY SCHOOL	JAMES J. WELCH	1133 LEE AVENUE	CAMDEN	NJ	08104	8563553631	teechu.r.1.2.3.4.5.6.78@gmail.com
796585935	REDMOND ELEMENTARY SCHOOL	DOLORES C. THORE	458 OWAGNER LANE	REDMOND	WA	98052	2062938747	teechu.r.1.2.3.4.5.6.78@gmail.com
796585994	RAPID CITY ELEMENTARY SCHOOL	DOLORES C. THORE	195 ANDY STREET	RAPID CITY	SD	57701	6053494009	teechu.r.1.2.3.4.5.6.78@gmail.com
796586036	LOS ANGELES ELEMENTARY SCHOOL	JARINE E. SLARREZ	3247 CENTS HEIGHTS DRIVE	LOS ANGELES	CA	90071	2136873856	teechu.r.1.2.3.4.5.6.78@gmail.com
796586052	CINCINNATI ELEMENTARY SCHOOL	ALANNE F. STAMERZ	570 BAINES AVENUE	CINCINNATI	OH	45231	5137280710	teechu.r.1.2.3.4.5.6.78@gmail.com
796586098	FAIRBANKS ELEMENTARY SCHOOL	MARIA J. LUDIGA	1306 KID AVENUE	FAIRBANKS	AK	99701	9078881031	teechu.r.1.2.3.4.5.6.78@gmail.com
796586133	SPRINGFIELD ELEMENTARY SCHOOL	JERRY E. BARAN	4850 PINE GARDEN LANE	SPRINGFIELD	MO	65806	4177266948	teechu.r.1.2.3.4.5.6.78@gmail.com
796586176	NEWMAN ELEMENTARY SCHOOL	MAURICE O. ROY	1756 CHANDLER DRIVE	NEWMAN	GA	30063	7702521836	teechu.r.1.2.3.4.5.6.78@gmail.com
796586192	MANHATTAN ELEMENTARY SCHOOL	NICHOLAS B. NACE	34 FOWLE AVENUE	MANHATTAN	NY	10016	9178714801	teechu.r.1.2.3.4.5.6.78@gmail.com
796586259	HARTFORD ELEMENTARY SCHOOL	GERALD S. CABRERA	1335 HART STREET	HARTFORD	CT	06103	8602807350	teechu.r.1.2.3.4.5.6.78@gmail.com
796586294	MILWAUKEE ELEMENTARY SCHOOL	PHYLIS A. YOUNG	3358 HART STREET	MILWAUKEE	WI	53202	9206568272	teechu.r.1.2.3.4.5.6.78@gmail.com
796586358	MASSVILLE ELEMENTARY SCHOOL	CARLOS F. ROSA	3030 HIDDEN POND ROAD	MASSVILLE	TN	37201	615079502	teechu.r.1.2.3.4.5.6.78@gmail.com
796586354	EL SEGUNDO ELEMENTARY SCHOOL	MARK D. LOUGHLIN	528 SUMNER STREET	EL SEGUNDO	CA	90245	7033120818	teechu.r.1.2.3.4.5.6.78@gmail.com
796586357	LEWISTON ELEMENTARY SCHOOL	KELLY D. DYSON	3407 GOLF COURSE DRIVE	LEWISTON	ME	14092	7167545472	teechu.r.1.2.3.4.5.6.78@gmail.com
796586365	MOUNTAIN TOP ELEMENTARY SCHOOL	RIGOBERTO N. MCCABE	3355 BOTTOM LANE	MOUNTAIN TOP	PA	18072	5704037517	teechu.r.1.2.3.4.5.6.78@gmail.com
796586367	VENTURA ELEMENTARY SCHOOL	PAUL B. MAIER	2945 STONEY LONSOME ROAD	VENTURA	CA	93001	8056518316	teechu.r.1.2.3.4.5.6.78@gmail.com
796586366	MILWAUKEE ELEMENTARY SCHOOL	TECHUR12345678@gmail.com	4151 WHALEY LANE	MILWAUKEE	WI	53202	teechu.r.1.2.3.4.5.6.78@gmail.com	teechu.r.1.2.3.4.5.6.78@gmail.com
796586393	ATLANTA ELEMENTARY SCHOOL	LUIS L. ANDERSON	3655 HILLVIEW DRIVE	ATLANTA	GA	30308	7068903878	teechu.r.1.2.3.4.5.6.78@gmail.com
796586417	ALEXANDRIA ELEMENTARY SCHOOL	STEPHANIE M. WRIGHT	9807 AUGUST LANE	ALEXANDRIA	VA	22301	5713873133	teechu.r.1.2.3.4.5.6.78@gmail.com
796586476	LOS ANGELES ELEMENTARY SCHOOL	BRENT P. PERRY	8907 CAMUS HEIGHTS DRIVE	LOS ANGELES	CA	90007	9130373211	teechu.r.1.2.3.4.5.6.78@gmail.com
796586479	IRVINE ELEMENTARY SCHOOL	JEFFREY T. TRAPP	485 OAKWOOD CIRCLE	IRVINE	CA	92614	9403937522	teechu.r.1.2.3.4.5.6.78@gmail.com
796586539	SOUTH BOSTON ELEMENTARY SCHOOL	STEVEN G. GROSE	611 CEDAR LANE	SOUTH BOSTON	MA	02127	6175558450	teechu.r.1.2.3.4.5.6.78@gmail.com
796586577	SALT LAKE CITY ELEMENTARY SCHOOL	ANN P. PITTS	3960 HICKORY STREET	SALT LAKE CITY	UT	84116	8016945153	teechu.r.1.2.3.4.5.6.78@gmail.com
796586589	PADUICHA ELEMENTARY SCHOOL	JOHN S. GRHAM	3621 COFFMAN ALEYS	PADUICHA	KY	42001	2707664255	teechu.r.1.2.3.4.5.6.78@gmail.com
796586633	MADISON ELEMENTARY SCHOOL	TECHUR12345678@gmail.com	3621 INGRAM STREET	MADISON	OH	45408	teechu.r.1.2.3.4.5.6.78@gmail.com	teechu.r.1.2.3.4.5.6.78@gmail.com
796586637	NEW YORK ELEMENTARY SCHOOL	GARY K. LEWIS	3876 IRISH LANE	NEW YORK	NY	10038	6488086949	teechu.r.1.2.3.4.5.6.78@gmail.com
796586674	RICHARDSON ELEMENTARY SCHOOL	DICK C. FARBAK	3515 STONEY LANE	RICHARDSON	TX	75081	2124297654	teechu.r.1.2.3.4.5.6.78@gmail.com
796586838	MANHATTAN ELEMENTARY SCHOOL	GLADYS A. HARPER	2331 STONEY LANE	MANHATTAN	NY	10016	91729973830	teechu.r.1.2.3.4.5.6.78@gmail.com
796586861	RALTO ELEMENTARY SCHOOL	STEFAN P. DECKER	337 ROOSEVELT WILSON LANE	RALTO	CA	92376	6462547483	teechu.r.1.2.3.4.5.6.78@gmail.com

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1 (End of bench conference.)

2 THE COURT: Mr. Robert?

3 MR. ROBERT: No objection, Your Honor.

4 MR. HOTCHKISS: No objection, Your Honor.

5 THE COURT: All right. Agent Moon will be
6 recognized as an expert in the area of Excel and
7 Excel functions.

8 MS. VIERBUCHEN: If I could have
9 Ms. Kastrin pull up Exhibit 1- -- the Excel version
10 of Exhibit 141.

11 BY MS. VIERBUCHEN:

12 Q. And, Agent Moon, please let us know if you need
13 to scroll through and see any of this.

14 A. Sure. If you'd just go to the view at the top
15 tab, to the right a little bit.

16 And then zoom -- you can go to -- I think
17 75 percent looks pretty good.

18 Q. Okay. Do you recognize this Excel version of
19 Government's Exhibit 141, which was just admitted as
20 a -- in a PDF version?

21 A. Yes. It is the same document, but in Excel, as
22 opposed to a PDF version.

23 Q. And when you say in Excel, is this -- is the
24 Excel format the version that you obtained it off
25 the -- one of the defendants' MacMinis?

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1 A. That's correct.

2 Q. And so other than recording the account
3 details, as you previously testified, what else does
4 this Excel sheet -- spreadsheet do?

5 A. So the first thing of note is, I wasn't sure of
6 the exact name. It's fake database 3.

7 I previously testified I knew it was
8 similar to fake database, but the number three is
9 also appended at the end of that text.

10 Q. And you're highlighting the fake database 3 at
11 the end of this document -- at the bottom of this
12 document, excuse me.

13 What is that --

14 A. That's just --

15 Q. -- the fake database 3?

16 A. That's just the name of this tab, created by --
17 the creator of the document named that tab fake
18 database, the number three.

19 Q. Okay.

20 A. And so of importance in this spreadsheet, if
21 you could highlight Row B -- or 1 -- B1, so I'll just
22 click here.

23 And if you notice in the top right here,
24 this long section that begins with the word
25 concatenate, and then a series of other letters and

1 all went back to just four e-mail accounts.

2 And you will also hear that those four
3 e-mail accounts had been used to recycle over 25,000
4 of these ink cartridges and to claim over 60,000
5 transactions at OfficeMax by doing online
6 adjustments.

7 Now, remember the information that you need
8 to make an online adjustment was the store, the
9 register number, the receipt number, and the date.
10 And remember that the evidence is going to show you
11 that you don't need to know the amount of the sale.

12 Three of those four things that you need,
13 they're going to stay the same at the same register
14 at the same store on the same day. And that fourth
15 piece, if you're looking for a vulnerability, it
16 doesn't take long to figure out that the receipt
17 number, it just goes up by one with each transaction.

18 So the evidence will show that if you had a
19 huge number of accounts and a decent number of real
20 receipts and a lot of time, or a computer program to
21 do it for you, that you could then go online and,
22 through online adjustments, claim purchases that you
23 had never made; claim purchases that other people had
24 made.

25 And if you tell that lie enough times the

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1 evidence will show that you could start to make some
2 money.

3 And in fact, the evidence is going to show
4 that that's exactly what the defendants did.

5 And you will hear that this was not
6 something that was just dabbled in. The evidence is
7 going to show you that this scheme involved over 300
8 OfficeMax stores in over 20 states.

9 So now having heard generally about what
10 this scheme involved, I'm going to go through what
11 the evidence is going to show about the who.

12 What evidence shows that it was the
13 defendants that were behind all of these illegitimate
14 MaxPerks accounts?

15 So the four common e-mail addresses, and
16 some others that you're going to hear about during
17 the trial, the evidence will show they were linked
18 together.

19 So for instance, a \$50 reward that had been
20 issued to a coach account and \$80 that had been
21 issued to one of those teechnur accounts, they were
22 used together in the same purchase for something at
23 OfficeMax.

24 And you're going to hear that that was
25 shown a number of times, where two different of these

1 illegitimate accounts were used together to make a
2 purchase.

3 And then you're going to hear that the
4 ~~evidence will show that something else was linked to~~
5 these illegitimate accounts, and that was a debit
6 card.

7 The evidence is going to show that on a
8 number of occasions, when these reward cards were
9 used, that if there was a balance left after using
10 the reward card, there was a debit card used to pay
11 that.

12 And so for example, if there was a \$200
13 purchase at OfficeMax and 150 of that was paid for
14 with a reward card, that remaining \$50 was paid for
15 with a debit card.

16 And the evidence will show that that debit
17 card, a MasterCard, was registered to Matt Channon.

18 Now, the debit card is not the only
19 evidence that you're going to hear about who belonged
20 to these illegitimate accounts.

21 You are going to see surveillance video.
22 And in these surveillance videos you're going to see
23 both defendants, Matthew and Brandi Channon, going
24 into OfficeMax and making purchases or recycling ink.
25 And then you're going to see the related transactions

1 afterwards that claim those purchases or that ink
2 recycling to these illegitimate accounts.

3 You're also going to hear that the gmail
4 account that was used to create all of those coach
5 12345678 accounts, that that was created from an
6 internet address that's associated with the
7 defendants' home.

8 Speaking of the defendants' home, you will
9 see evidence that was found inside the defendants'
10 own home, including OfficeMax gift cards, a bunch of
11 empty ink cartridges, and OfficeMax merchandise.

12 And on one of the computers that was found
13 inside the defendants' home you will see that they
14 found something very similar.

15 On that computer they found spreadsheets
16 listing thousands of coach, teechur, and Bargle
17 e-mail addresses.

18 Finally, you will hear that Matt Channon
19 himself admitted to having numerous OfficeMax
20 accounts.

21 He admitted that he recycled ink with these
22 accounts.

23 And he admitted to claiming other people's
24 purchases using online adjustments.

25 And you're going to hear that Brandi

1 Channon admitted to creating over 100, possibly over
2 a thousand MaxPerks accounts.

3 She admitted to putting dots in the middle
4 of the e-mail addresses so they looked like different
5 accounts to OfficeMax, but not to gmail.

6 She admitted to claiming other people's
7 purchases as her own.

8 And she admitted that parts of this were
9 like a full-time job.

10 By the time all was said and done you will
11 hear that the Channons' OfficeMaxing involved them
12 claiming, again, to be over 5,000 different people,
13 recycling over 25,000 ink cartridges, claiming over
14 60,000 transactions involving nearly \$2 million worth
15 of purchases in over 300 stores in over 20 states,
16 and ultimately cheating OfficeMax out of property
17 that they had never earned, never paid for, and never
18 had a right to.

19 And we're not talking about a few staplers
20 here, ladies and gentlemen. We're talking about over
21 \$100,000 worth of property.

22 And for this conduct the defendants are
23 charged in Counts 2 through 7 with wire fraud, and in
24 Count 1 with conspiracy to commit wire fraud.

25 So this has been a summary of what the

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1 Q. And just so I understand, by looking at this
2 Excel file by itself, would you be able to go onto
3 OfficeMax's website and fill in the profiles online
4 to open a thousand -- thousands of MaxPerks accounts?

5 A. Not from this Excel document. There are
6 functions within Excel that allow you to do the
7 process I described of sending and receiving data.

8 I did not have indications of that within
9 this document.

10 Or you could write another program.

11 But this document, as it stands right now,
12 could not do that on its own.

13 Q. Without an intervening step?

14 A. That's correct. But this document was found in
15 unallocated space, indicating it was deleted. So the
16 corresponding program that would have read this data
17 could have also been deleted and written over so our
18 forensic tool would not find it.

19 Q. So just to be clear, we did not find that other
20 program?

21 A. We did not find that other program, or a
22 program that interpreted this data, no.

23 Q. Okay.

24 MS. VIERBUCHEN: Thank you, Agent Moon.

25 I have no further questions.

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1 losing money, it came crying to the FBI.

2 The jury rejected that version of events,
3 and I hope that this Court has too.

4 Despite the impression that a casual
5 observer of the sentencing proceedings might have
6 taken, the Channons weren't charged because they were
7 too into recycling.

8 If they had just been recycling too many
9 ink cartridges at OfficeMax, I seriously doubt that
10 the FBI would have ever heard of this case. I doubt
11 that we would be here now.

12 But, no. What they did, and what you won't
13 find any mention of in Matthew Channon's 22-page
14 sentencing memorandum or his allocution now, is
15 deploying a computer program in an attempt to steal
16 hundreds of thousands of dollars from OfficeMax.

17 The mechanics of it may have been
18 sophisticated, but the intent was theft, pure and
19 simple. And that is mal in se. It doesn't take a
20 genius to realize that that's wrong.

21 And what they did was remarkably effective.
22 In just a few short months the Channons had generated
23 about \$175,000 in rewards for themselves.

24 Who knows what kind of losses they might
25 have caused to OfficeMax if they had kept going, if

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1 OfficeMax had not caught that online adjustment
2 scheme when they did. They could easily have reached
3 a million dollars or more in a fairly short period of
4 time.



COURT102020160931_Channon Sentencing.txt

19 approved by the probation officer.

20 And the Court is imposing this condition in
21 order to require that the defendant provide service
22 for her community.

23 The defendant must participate in an
24 educational or vocational program approved by the
25 probation officer.

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1 And this condition is imposed to assist the
2 defendant in obtaining employment.

3 The defendant has shown an interest in
4 furthering her education, so this condition will also
5 assist her in maintaining those education goals.

6 The defendant must not possess a firearm
7 ammunition, destructive device, or any other
8 dangerous weapon.

9 And this condition is imposed due to the
10 defendant's status as a convicted felon.

11 The defendant must submit to a search of
12 the defendant's person, property, or automobile under
13 the defendant's control, to be conducted in a
14 reasonable manner and at a reasonable time for the
15 purpose of detecting illegal contraband and the
16 monitoring of her computer.

17 And this is to be done at the direction of
18 the probation officer.

19 The defendant must inform any residents
20 that the premises may be subject to a search.

21 Now the Court is imposing this condition

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22 because the instant offenses involved the defendant

23 using a computer to defraud OfficeMax.

24 The defendant is prohibited from incurring

25 new credit charges, opening additional lines of

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1 credit, or negotiating or consummating any financial

2 contracts without the prior approval of the probation

3 officer.

4 The defendant must provide the probation

5 officer access to any requested financial

6 information, personal income tax returns,

7 authorization for the release of credit information,

8 and any other business financial information in which

9 the defendant has an interest or control.

10 The Court is imposing these conditions

11 because the defendant will owe restitution. These

12 conditions will ensure that any excess money that the

13 defendant obtains is used to reduce her restitution

14 obligations.

15 The defendant must participate in and

16 successfully complete location monitoring for a

17 period of six months, in the location monitoring

18 program with the radio-frequency technology under

19 home detention component. The defendant may be

20 required to pay a portion or all of such program

21 costs.

22 And the Court is imposing this condition as

23 a sanction because the defendant engaged in fraud for

24 a period of almost two years.

25 The defendant must participate in and

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1 There were three witnesses who provided
2 testimony relevant to the charges against Brandi
3 Channon.

4 Steven Gardner, the manager of organized
5 retail crime investigations at OfficeMax and Office
6 Depot, connected many e-mail addresses, rewards
7 accounts, a debit or credit card ending in 4445.

8 Mr. Gardner presented no evidence
9 specifically against Brandi Channon, other than
10 Ms. Channon's presence in a very few OfficeMax
11 alleged ink recycling transactions, including on
12 November 22, 2010, and November 23, 2010.

13 We don't know, actually, what happened,
14 since the video played has no audio and the cashier
15 did not testify, and no one else testified with
16 firsthand knowledge of what happened during the
17 transactions.

18 On cross-examination Mr. Gardner admitted
19 that there was no evidence Ms. Channon ever read or
20 represented that she agreed to any terms and
21 conditions of the MaxPerks reward program.

22 He admitted that Ms. Channon was only
23 allegedly implicated in the ink recycling aspect of
24 the charged conspiracy.

25 He admitted there was no evidence

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1 bags were picked up and placed somewhere else, right?

2 A. Right. And typically they have an exchange, or
3 a discussion with the person recycling the ink, where
4 they discuss how many are in here, and sometimes
5 they'll eyeball it.

6 Q. There are no audio -- there's no audio in any
7 of these videos, is there?

8 A. No.

9 Q. And so you can't say whether those
10 conversations took place with respect to any of those
11 videotaped transactions?

12 A. I can't say specifically on each transaction.
13 But in discussions with OfficeMax on how they are --

14 MR. ROBERT: This is hearsay, Your Honor.
15 I'll object to it.

16 THE COURT: If you could not tell us what
17 other people told you, unless there's a specific
18 question.

19 THE WITNESS: I apologize.

20 BY MR. ROBERT:

21 Q. Anyway, I guess the point is, the sales
22 associates, who are basically the point of contact
23 for customers, weren't always very careful about
24 managing the way this program is administered, were
25 they?

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1 Let's just say it's only a 500 percent
2 markup and only \$15 a cartridge. That's still
3 \$313,356 that OfficeMax made on those recycled
4 cartridges.

5 If Matt Channon had never been born, if
6 OfficeMax had never heard of Matt Channon, they would
7 have less money in their coffers than they do as a
8 result of all of this.

9 Matt -- and to some extent I suppose
10 Brandi, because we've seen her in some videos, just a
11 couple -- devoted an extraordinary amount of time and
12 effort to this.

13 Ink recycling -- Exhibit 32, please -- in
14 12 states, at 229 stores.

15 A ton of travel. I mean, the effort
16 expended was extraordinary.

17 And Matt didn't hide. He wasn't hiding.
18 His face was all over the cameras. Of course anybody
19 knows, these days, that you are going to be looked at
20 by cameras. Somebody is watching and recording.

21 He used -- when he had a balance to pay on
22 some of the stuff that he bought, he used his own
23 cards -- a credit card, a debit card -- easily
24 traceable back to Matt Channon.

25 And again, this is not a guy who's

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MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 4/1/2011 assigned to MaxPerks MemberID																
Type	Trans Key	Member ID	Email Address	ans	Trans Date	Trans Time	Store	Store City	Store	Store (On)	Ac/Receipt Nbr	Register ID	Orig:Net Sales	Gross Sales	Units	Sub: Total Paym
Other	S_170792863	629207597	sws11@live.com	1	1/2/10	11:49:06 AM	1307	Goodyear	AZ	Retail	0	0000000000004727	000000000001	\$105.95	\$106.15	22 20 \$105.95
Other	S_170892855	631997074	kgold75@gmail.cc:1	1	1/2/10	11:55:29 AM	1307	Goodyear	AZ	Retail	0	0000000000006655	000000000002	\$105.95	\$106.15	22 20 \$105.95
Other	S_171193607	624382552	rockwall.c.testing@1	1	1/3/10	2:13:27 PM	1425	Mesa	AZ	Retail	0	0000000000006435	000000000002	\$124.99	\$80.18	21 20 \$135.05
Other	S_171125944	644922006	tacototemdfw@yal:1	1	1/3/10	2:15:56 PM	1425	Mesa	AZ	Retail	0	0000000000006858	000000000001	\$124.99	\$80.18	21 20 \$135.05
Other	S_177514212	636673773	gilbertarbor@gmail:1	1	1/17/10	11:48:44 AM	0638	Albuquerque	NM	Retail	0	0000000000007406	000000000001	\$0.00	\$0.20	20 20 \$0.00
Other	S_177514389	650774566	719friends@gmail.:1	1	1/17/10	11:50:01 AM	0638	Albuquerque	NM	Retail	0	0000000000007407	000000000001	\$105.95	\$106.15	22 20 \$105.95
Other	S_196318896	796207612	ma.h.ashamaranka:1	1	3/17/10	11:30:46 AM	1479	Arnold	MO	Retail	0	0000000000003891	000000000003	\$0.00	\$0.20	20 20 \$0.00
Other	S_196319967	796210478	ma.h.s.hamaranka:1	1	3/17/10	11:31:43 AM	1479	Arnold	MO	Retail	0	0000000000003892	000000000003	\$0.00	\$0.20	20 20 \$0.00
Other	S_196194315	796210478	ma.h.s.hamaranka:1	1	3/17/10	12:25:38 PM	1209	Fenton	MO	Retail	0	0000000000005906	000000000001	\$0.00	\$0.20	20 20 \$0.00
Other	S_196194521	796207612	ma.h.ashamaranka:1	1	3/17/10	12:26:55 PM	1209	Fenton	MO	Retail	0	0000000000005907	000000000001	\$0.00	\$0.20	20 20 \$0.00
Other	S_196277672	796210478	ma.h.s.hamaranka:1	1	3/17/10	1:04:57 PM	0411	St. Louis	MO	Retail	0	0000000000003182	000000000002	\$0.00	\$0.20	20 20 \$0.00
Other	S_196277752	796207612	ma.h.ashamaranka:1	1	3/17/10	1:05:51 PM	0411	St. Louis	MO	Retail	0	0000000000003183	000000000002	\$0.00	\$0.20	20 20 \$0.00
Other	S_196330433	796207612	ma.h.ashamaranka:1	1	3/17/10	1:53:28 PM	1420	St. Louis	MO	Retail	0	0000000000003972	000000000003	\$0.00	\$0.20	20 20 \$0.00
Other	S_196330523	796210478	ma.h.s.hamaranka:1	1	3/17/10	1:54:26 PM	1420	St. Louis	MO	Retail	0	0000000000003973	000000000003	\$0.00	\$0.20	20 20 \$0.00
Coach	S_214778560	820157877	co.a.ch.1.23.45.67:1	1	5/20/10	4:53:31 PM	0627	Corona	CA	Retail	0	0000000000005381	000000000001	\$0.00	\$0.20	20 20 \$0.00
Other	S_214778713	626142168	lysmons@gmail.co:1	1	5/20/10	4:54:45 PM	0627	Corona	CA	Retail	0	0000000000005382	000000000001	\$0.00	\$0.20	20 20 \$0.00
Garble	S_291197942	861203719	g.arble12345678@:1	1	2/9/11	11:34:46 AM	0638	Albuquerque	NM	Retail	0	0000000000008513	000000000001	\$19.99	\$30.19	21 20 \$21.38
Other	S_291198180	712516003	chemixchemx@gm:1	1	2/9/11	11:36:24 AM	0638	Albuquerque	NM	Retail	0	0000000000008514	000000000001	\$0.00	\$0.21	21 21 \$0.00
Other	S_319203534	648012993	cvid.us@gmail.com:1	1	5/31/11	10:49:32 AM	0638	Albuquerque	NM	Retail	0	0000000000001409	000000000003	\$0.00	\$0.20	20 20 \$0.00
Other	S_319162953	796201258	a.meriod.espatch@:1	1	5/31/11	10:50:25 AM	0638	Albuquerque	NM	Retail	0	0000000000008062	000000000002	\$0.00	\$0.20	20 20 \$0.00
From Bates 3273																

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MaxPerks Loyalty Transactions -- All captured loyalty transactions & Online adjustment details since 4/1/2011 assigned to MaxPerks MemberID																	
Type	Trans Key	Member ID	Email Address	ans	Trans Date	Trans Time	Store	Store City	Store	Store (Onl)	Receipt Nbr	Register ID	Orig:Net Sales	Gross Sales	Units Subr	Total Paym	Recycling Units
Other	S_195898838	796207612	ma.h.ashamaranka	1	3/16/10	12:33:38 PM	0260	St. Louis	MO	Retail	0	000000000007654	000000000001	\$0.00	\$0.19	19	\$0.00
Other	S_196316869	796210478	ma.h.s.hamara.nka	1	3/17/10	11:03:19 AM	0260	St. Louis	MO	Retail	0	000000000009472	000000000003	\$0.00	\$0.20	20	\$0.00
Other	S_196318896	796207612	ma.h.ashamaranka	1	3/17/10	11:30:46 AM	1479	Arnold	MO	Retail	0	0000000000003891	000000000003	\$0.00	\$0.20	20	\$0.00
Other	S_196318967	796210478	ma.h.s.hamara.nka	1	3/17/10	11:31:43 AM	1479	Arnold	MO	Retail	0	0000000000003892	000000000003	\$0.00	\$0.20	20	\$0.00
Other	S_196194315	796210478	ma.h.s.hamara.nka	1	3/17/10	12:25:38 PM	1209	Fenton	MO	Retail	0	0000000000005906	000000000001	\$0.00	\$0.20	20	\$0.00
Other	S_196194521	796207612	ma.h.ashamaranka	1	3/17/10	12:26:55 PM	1209	Fenton	MO	Retail	0	0000000000005907	000000000001	\$0.00	\$0.20	20	\$0.00
Other	S_196277672	796210478	ma.h.s.hamara.nka	1	3/17/10	1:04:57 PM	0411	St. Louis	MO	Retail	0	0000000000003182	000000000002	\$0.00	\$0.20	20	\$0.00
Other	S_196277752	796207612	ma.h.ashamaranka	1	3/17/10	1:05:51 PM	0411	St. Louis	MO	Retail	0	0000000000003183	000000000002	\$0.00	\$0.20	20	\$0.00
Other	S_196204102	796207612	ma.h.ashamaranka	1	3/17/10	1:28:05 PM	1242	St. Louis	MO	Retail	0	0000000000008591	000000000001	\$0.00	\$0.20	20	\$0.00
Other	S_196330433	796207612	ma.h.ashamaranka	1	3/17/10	1:53:28 PM	1420	St. Louis	MO	Retail	0	0000000000003972	000000000003	\$0.00	\$0.20	20	\$0.00
Other	S_196330523	796210478	ma.h.s.hamara.nka	1	3/17/10	1:54:26 PM	1420	St. Louis	MO	Retail	0	0000000000003973	000000000003	\$0.00	\$0.20	20	\$0.00
From Bates 3273																	



Channon's Other Accounts For Recycling

MaxPerks Member Information (current)				
Loyalty #	Date Opened	Address Status	Business	Name
445422487	02/17/2007	Good	CSOL CORP	CSOL CORP
620199354	09/19/2009	Invalid	EW COPPERING & CO.	EW COPPERING
620354481	10/19/2009	Invalid	TRIGHM LAW	TRIGHM LAW
621696548	10/19/2009	Invalid	22ND CENTURY LIGHTING	TWENTYSECOND CENTURY LIGHTING
622592509	01/29/2010	Good	DOWNTOWN AFICIONADOS	DOWNTOWN AFICIONADOS
622892146	09/19/2009	Good	G SMITHING	G SMITHING
622988178	10/10/2009	Invalid	N.G. STAPLES	N G STAPLES
623108678	10/10/2009	Invalid	MOIRE PARTNERSHIP	MOIRE PARTNERSHIP
623384144	09/18/2009	Invalid	JT FISH	JT FISH
623428273	09/19/2009	Invalid	NE JOHNS	NE JOHNS
623479404	10/10/2009	Invalid	BT AIRFRIARS	BT AIRFRIARS
623727157	10/09/2009	Good	KEN CARYL MODELING	KEN CARYL MODELING
623948854	10/19/2009	Invalid	DENTON AERODYNE	DENTON AERODYNE
624382552	10/20/2009	Good	ROCKWALL C TESTING	ROCKWALL C TESTING
624575644	11/06/2009	Invalid	DENVER SPRING & VALVE	DENVER SPRING & VALVE
625384494	10/10/2009	Invalid	HITECK OF LOVELAND	HITECK LOVELAND
625396867	10/12/2009	Good	AZRAEL TECHWORKS	AZRAEL TECHWORKS
625513685	10/09/2009	Invalid	VERDE BLUE TECHNOLOGIES	VERDE BLUE
625746183	09/18/2009	Closed Account	CHRISTIAN CRAFTS	CHRISTIAN CRAFTS
625988195	09/19/2009	Invalid	R R EAST	R R EAST
626078303	01/29/2010	Invalid	LAS CRUCES BARGAINS	LAS CRUCES
626142168	09/19/2009	Good	JON & SIMON'S	JON & SIMON
626576443	01/29/2010	Invalid	JONES INTERCYCLE	JONES INTERC
626805442	10/19/2009	Invalid	MID RANGE GEAR	MID RANGE G

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1 relevance.

2 MR. ROBERT: He's already answered,
3 Your Honor.

4 THE COURT: Overruled.

5 BY MR. ROBERT:

6 Q. All right. Matt did nothing with respect to
7 his visual appearance in these stores to hide who he
8 was?

9 A. Not that I saw in the video, no.

10 Q. All right. There are a number of transactions
11 in which Matt used his own, either credit card or
12 debit card, to make up the difference in purchasing
13 items using rewards?

14 A. That's correct.

15 Q. Okay. So for example, we saw a number of
16 transactions, receipts that were annotated by you or
17 by the government that had a purchase of something,
18 whether it be actual product or gift cards, and then
19 rewards were used to pay for a part of it, right?

20 A. Correct.

21 Q. And then the balance would have been paid,
22 usually by a card, and I think 4445 was the number
23 that was used many times.

24 A. Yes, sir.

25 Q. Those -- that card was Matt's?

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1 A. Correct.

2 Q. There was no question about that?

3 A. Yes, sir.

4 Q. Right?

5 A. No question.

6 Q. Anybody would know that that card would be
7 traceable back to himself, wouldn't they?

8 A. I can't theorize as to what anybody knows
9 regarding potential credit cards and how that could
10 be tracked. I'm sure some people do and some people
11 do not.

12 Q. Well, you certainly tracked it?

13 A. I know that, yes, sir.

14 Q. And in this case it was tracked?

15 A. Absolutely.

16 Q. And then you have specialized knowledge about
17 computers, and certainly from this case, I'm
18 guessing, some specialized knowledge about how retail
19 works in this regard?

20 A. That's fair, I would say.

21 Q. Okay. And so you know, based on that, that if
22 you use your credit card in a store, if somebody were
23 to do the kind of investigation that you did, your
24 name would pop up?

25 A. I know that, yes.

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Steven Gardner - Direct by Ms. Vierbuchen

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1 think there was a pin with it also, a pin number that
2 would get put in, and it would get applied right to
3 your purchase.

4 Q. So in that example of a \$75 purchase and a \$10
5 reward, it's akin to a \$10 gift certificate that you
6 hand to the cashier?

7 A. Yes.

8 MR. ROBBENHAAR: Your Honor, I have to
9 object to the leading nature of this question and
10 many of the others.

11 THE COURT: There has been some leading.
12 So if you could ask direct questions, please.

13 BY MS. VIERBUCHEN:

14 Q. Okay. Would you agree that it's similar to a
15 gift certificate?

16 A. In our POS system we treat it like a gift
17 certificate.

18 If you will look at the receipt that the
19 customer was given, it usually says gift card on it,
20 so it's treated like a gift certificate. It's just
21 got a different bin range which is some of that
22 leading digits, so we know it's a reward card on the
23 back end.

24 Q. And you mentioned in your POS system, what does
25 that mean?

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1 Group 1 accounts, there were 117. One is left off of
2 here that had been opened in -- I believe it was
3 2007, if my memory strikes me right. And that one we
4 left off because we had identified it as -- we always
5 offer one account to the customer, so we figured that
6 was the oldest one and we would leave that with what
7 we thought was the customer's actual account.

8 And then starting in 2009, 117 accounts
9 were opened between August and February of 2010.

10 Q. And is that simply the -- you're depicting it
11 in a visual format that's just different than what's
12 in Exhibit 19?

13 A. Correct. It just kind of shows how the
14 accounts opened. And you can see how they -- you
15 start with these Group 1 ones, and then you begin
16 with these other accounts that were getting all the
17 online adjustments. And each sequencing seems to
18 open when another one ends.

19 Q. And so this is where we have the Group 1 and
20 Group 2.

21 Is this kind of why you've chosen the
22 nomenclature, because of -- it dates them when these
23 accounts were open?

24 MR. ROBBENHAAR: Your Honor, I have to
25 object to leading questions.

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1 THE COURT: Yes, they are leading
2 questions. So if you could rephrase please.

3 BY MS. VIERBUCHEN:

4 Q. Just -- I draw your attention to Group 1 and
5 Group 2, and remind the jury why we have those
6 groups.

7 A. Well, as you can see from here now, it probably
8 makes a little more sense. Even though we identified
9 the Group 1 after, they were actually opened up
10 before the Group 2 accounts, so just from a standard
11 of when they were opened is how they were labeled.
12 The Group 1 accounts were opened before the Group 2
13 accounts.

14 Q. Now, we have talked about some linking of
15 accounts through the use of a debit card in Matt
16 Channon's name.

17 I'd like to turn now to -- and ask you a
18 question whether or not you were able to link any of
19 the Group 1 accounts with the Group 2 accounts.

20 A. Via purchases, yes.

21 Q. Via purchases.

22 All right. Let's go to Government's
23 Exhibit 23, and tell me what this is.

24 MS. VIERBUCHEN: Oh, I'm sorry. I need to
25 offer these first. 23, 24, and 25, Your Honor, they

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1 Q. So with the Row 2 and the online adjustment,
2 what conclusion do we draw if that online
3 adjustment -- what conclusion do we draw about
4 whether or not the person that actually made the
5 transaction, in-store transaction on July 7, had a
6 MaxPerks number?

7 A. The conclusion would be they didn't, because
8 they didn't supply it at the time.

9 Q. And that was why an online adjustment could
10 then be done on that initial purchase?

11 MR. ROBBENHAAR: Your Honor, object to,
12 again, leading.

13 A. Correct.

14 THE COURT: And -- yes, the question is
15 leading.

16 So please ask nonleading questions.

17 MS. VIERBUCHEN: I will try, Your Honor.

18 BY MS. VIERBUCHEN:

19 Q. So then let's just do the next line so we
20 understand.

21 A. Sure. So then on 7-7 at 3:25 p.m., Transaction
22 6508, which is approximately six transactions after
23 the one that was just online adjusted, a customer who
24 was in the building spent \$16.23 with us.

25 That transaction was also adjusted online

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1 THE COURT: All right. Anything else?

2 MS. VIERBUCHEN: No, Your Honor.

3 THE COURT: The videos, in full, were made
4 available to the defendants, as I heard it. And I
5 think that if -- with the other exhibit that we just
6 looked at, the witness was able to identify and
7 verify the surveillance video that we saw in that
8 one.

9 Assuming he's able to do that with this one
10 as well, the Court will admit the video.

11 Now the fact is that there was some
12 editing, and so I will certainly give you leeway to
13 ask about that in cross-examination.

14 But to the extent that the witness can
15 properly identify the video, I will allow the video.

16 As long as we're here why don't we talk
17 about 52 and 53?

18 MR. ROBBENHAAR: Those are the standing
19 objections.

20 MR. HOTCHKISS: Joined by Ms. Channon.

21 THE COURT: All right. So with respect to
22 52 and 53, you know, the Court will admit them on the
23 same basis.

24 MR. ROBBENHAAR: Understood.

25 And while we're here -- and I don't mean to

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1 disrupt your flow. But a lot of the questioning is
2 leading, and I'm all for moving this quickly, but I
3 think we do have to follow the Rules of Evidence.

4 ~~It's very leading, very -- it's testimony~~
5 testifying for the witness at times.

6 So I don't want to --

7 MS. VIERBUCHEN: Well, I truly am trying to
8 speed it up. And particularly in light of the
9 opening statement where they conceded that he did all
10 of this, it's kind of -- I'm just really trying to
11 shorten the trial.

12 But I don't think that it's -- I think it's
13 speeding things up. I don't think it's a material
14 way, but I am concentrating on trying not to lead.

15 THE COURT: All right. And the witness is
16 certainly familiar enough with the evidence that I
17 think that we can get where we need to go in an
18 efficient and timely manner, so try not to lead.

19 MR. ROBBENHAAR: Thank you, Judge.

20 MS. VIERBUCHEN: I will. Thank you.

21 (End of bench conference.)

22 THE COURT: So the Exhibits 51, 52, and 53
23 are admitted, as stated at the bench.

24 BY MS. VIERBUCHEN:

25 Q. Mr. Gardner, we're going to be viewing -- well,

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1 have to pay out. And we're also going to, of course,
2 report that for our tax purposes.

3 Q. And so the company also relies on that
4 information for tax purposes for any -- how about
5 anything else?

6 A. I would assume tax, sales.

7 Q. SEC reports?

8 A. Are there SEC reports? I don't quite follow
9 your question here.

10 MR. ROBBENHAAR: Object to the leading
11 nature of the question and the speculative answers
12 here.

13 THE COURT: Well, they are leading, but I
14 think he let us know that he didn't know the answer
15 to that specifically.

16 MS. VIERBUCHEN: I think my last question
17 is regarding Government's Exhibit 48.

18 And if we could pull that up again, Agent
19 Moon.

20 And I'm just going to stop it here and just
21 draw your attention...

22 BY MS. VIERBUCHEN:

23 Q. Defense counsel pulled up another exhibit that
24 was marked Bates 1641.

25 Do you recall that we compared the two

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1 And then it -- at the bottom -- well, you
2 see on the video the purchase of items which you can
3 slightly see in Mr. Channon's left hand. When you
4 watch the full video you can see it.

5 And then the accounts associated are
6 notated at the bottom of the screen. Three Group 1
7 accounts, and I can state them if you need.

8 Q. And the three Group 1 accounts, what do those
9 accounts represent?

10 A. The -- these accounts are -- received benefit
11 from the recycling of ink or were used in the reward
12 card redemption, or the spending of the rewards.

13 Q. Okay. And did we actually see the electronic
14 receipts for these transactions in Government's
15 Exhibits 61 and 62?

16 A. Yes, we did.

17 Q. So if we went there and we looked, we could
18 actually see which was a reward card redemption and
19 what was used to get credit for the ink recycling?

20 MR. ROBERT: Objection, leading.

21 THE COURT: It is leading.

22 If you could rephrase, please?

23 MS. VIERBUCHEN: Certainly.

24 BY MS. VIERBUCHEN:

25 Q. And so if we looked on Government's Exhibits 61

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1 Q. And I want to go back now to Government's
2 Exhibit 24.

3 Do you recognize this document?

4 A. Yes, I do.

5 Q. We had just looked at this earlier?

6 A. Yes.

7 Q. And can you tell by looking at this document if
8 this is one of the ones you linked to the video that
9 we just saw?

10 A. Yes.

11 Q. And so tell the jury how it is that we linked
12 it with what we just saw.

13 A. When you would go through the full video, you
14 would see two gift cards, you would see the ink
15 recycle, and the time would be approximate for what
16 that -- when it had occurred.

17 Q. And so with all of those videos that we were
18 looking at in Exhibits 21A through Z, is that the
19 same process that was done -- that you've just shown
20 us in court that was done with 21A through Z?

21 A. Yes.

22 MR. ROBBENHAAR: Objection, leading.

23 MS. VIERBUCHEN: Your Honor, if I may,
24 foundational questions are allowed to be leading
25 under Rule 611.

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1 THE COURT: And that was a foundational
2 question, so the objection is overruled.

3 BY MS. VIERBUCHEN:

4 Q. Okay. I'd like to turn now and talk about
5 online adjustments. We touched on it earlier in the
6 morning.

7 Go back to -- just pull up Exhibit 3.

8 And we - you described this to the jury
9 earlier in the morning about how a person would go
10 online with their receipt and to -- to claim an
11 online adjustment.

12 I just have a question for you.

13 With respect to the information that
14 OfficeMax required at the time that this format was
15 being used, could a person use the information on a
16 receipt to claim a purchase of another person?

17 A. Yes.

18 Q. How could they do that?

19 A. When you look at the transaction number, it
20 does sequence. So if you figure out, you know, that
21 it's increasing by one, part of that transaction
22 number, then all you've got to do is keep going until
23 you get a good transaction.

24 We don't -- at the time, we don't lock you
25 out for putting in the wrong transaction. So even if

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1 We, the jury, find the defendant, Matthew
2 Channon, guilty as charged in Count 6 of the
3 indictment.

4 Count 7:

5 We, the jury, find the defendant, Matthew
6 Channon, guilty as charged in Count 7 of the
7 indictment.

8 Dated this 22nd day of January 2016, and
9 signed by the foreperson.

10 Is there anything further on behalf of the
11 government?

12 MS. VIERBUCHEN: No, Your Honor.

13 THE COURT: On behalf of Matthew Channon?

14 MR. ROBERT: No, Your Honor.

15 THE COURT: On behalf of Brandi Channon?

16 MR. HOTCHKISS: No, Your Honor.

17 THE COURT: All right.

18 Ladies and gentlemen of the jury, I want to
19 thank you for your service in this case.

20 If any of you have a few minutes to visit
21 with me in the jury room, I would like to thank you
22 in a less formal setting.

23 I have been advising you throughout the
24 course of the trial that you should not discuss this
25 case with anyone.

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1 That no longer applies. You're not
2 required to talk about this case with anyone, but if
3 you want to do so you are certainly free to do so.
4 That's entirely your choice.

5 Again, I thank you. It was obvious that
6 you-all were very attentive and took your duties
7 seriously.

8 So on behalf of the Court, I appreciate
9 your service.

10 And at this time I will discharge you.

11 So everybody please rise while our jury
12 leaves the courtroom.

13 You're not required to stay, but if you
14 can, I would like to thank you in a less formal
15 setting.

16 (Jury released.)

17 (Open court; outside the presence of the
18 jury.)

19 THE COURT: All right.

20 Court is adjourned.

21

22

23

24

25

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1 people's purchases, and she's having this anxiety
2 because she knows what she's doing is wrong.

3 THE COURT: All right. Thank you.
4 Anything else?

5 MR. ROBERT: No, thank you, Your Honor.

6 THE COURT: Mr. Hotchkiss?

7 MR. HOTCHKISS: No, Your Honor.

8 THE COURT: All right. I'm going to deny
9 the motion of -- the Rule 29 motion on behalf of both
10 defendants.

11 There has been sufficient evidence
12 introduced which, if the jury believes it, is --
13 would be sufficient to establish -- or to support a
14 guilty verdict on the issue of intent.

15 And without the Court reciting the
16 evidence, I acknowledge the examples that were
17 provided to us by Ms. Vierbuchen.

18 And in addition, with Mrs. Channon's
19 motion, I do think that there's sufficient
20 information, certainly in the statement that she gave
21 to the FBI, which if the jury believes that
22 information, would be sufficient to establish the
23 existence of her working in combination with
24 Mr. Channon.

25 So the Court will deny the Rule 29 motion

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1 We also have the electronic journal for
2 that day. Again, it's just another store in
3 Albuquerque a day later, and Mr. Channon is recycling
4 20 ink cartridges. He gets \$60 in MaxPerks rewards,
5 and this time he gives yet another account.

6 It's fictitious. It is Chigh Law account,
7 C-H-I-G-H, and it's registered to a business in
8 Plano, Texas.

9 As a result of these false statements he
10 gets the rewards, which is a material false
11 statement, and Matt Channon is guilty of Count 5.

12 Count 6. This is just with respect to
13 Matthew Channon. It is a -- the charge, a wire
14 transmission on June -- excuse me -- July 15, 2010.
15 And this is based on an e-mail that furnituu sent to
16 Tenekram, which we heard a lot about this buyer
17 throughout the course of this trial.

18 Mr. Channon e-mailed him five \$30 MaxPerks
19 reward certificates. And that is Government's
20 Exhibit 118.

21 And as we learned with the e-mails in this
22 case, the transmission of the e-mail is going to
23 cross state lines.

24 In fact the Google representative,
25 Ms. Papageorge, I believe her name was, told you just

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1 that. That, in fact, there were no servers in
2 New Mexico at that time; and, therefore, it would
3 have had to bounce off a server outside of
4 New Mexico.

5 But I want to just draw your attention to
6 Exhibit 108, that is reflected here. That is this
7 transmission that was sent through interstate
8 commerce. And what it is, is Mr. Channon is
9 forwarding:

10 "Please find attached five 30 PDFs."

11 We've seen the PDFs during the course of
12 this trial. Those are MaxPerks rewards. They have
13 numbers on them. I invite you to look at those
14 numbers and just go back to government's exhibit --
15 whether it's 4 or 19, however we annotated those for
16 you at Government's Exhibit 110. So if you want to
17 look there, you'll see what specific group -- Group 1
18 or 2 accounts these came to.

19 And Matt Channon tells him:

20 "I have many more rewards. Let me know."

21 This confirms his intent to deceive and
22 cheat OfficeMax.

23 Matt Channon is guilty of Count 6.

24 Finally, Count 7. Matthew Channon is
25 charged with sending a wire transmission in

1 rip off OfficeMax, right -- the defendant knowingly
2 and voluntarily participated in the conspiracy, the
3 defendant acted with specific intent to obtain money
4 or property by means of false or fraudulent
5 pretenses, representations, or promises.

6 And this element you may recognize, because
7 it was an identical element in the wire fraud
8 statute.

9 So I won't talk about the evidence that
10 proves that necessarily, when we talk about
11 conspiracy, because we've already discussed it as it
12 relates to Counts 2 through 7.

13 And then finally, the government must prove
14 beyond a reasonable doubt that there was
15 interdependence among the members of the conspiracy.

16 And the Court informs us that that means
17 that members in some way or manner intended to act
18 together for their shared mutual benefit.

19 Now, let me take a look at some of the
20 evidence that the government believes shows that
21 Matthew and Brandi are guilty of conspiring to commit
22 wire fraud.

23 They are, indeed, partners in crime.

24 Now this is Government's Exhibit 48, which
25 I promised that I would play for you again, just so

1 we can go through the conspiracy.

2 And this shows their concert of action and
3 their operating for mutual benefit to rip off
4 OfficeMax and take OfficeMax money so they can use it
5 for their own purposes.

6 Now as the judge also told you, the
7 government is not required to show a formal
8 agreement. It's a very rare occasion when criminals
9 sit down and write a list and an agreement, You're
10 going to do this, I'm going to do that, and they sign
11 it and get it notarized.

12 And so the way we determine that they had
13 this agreement to commit a crime is through their
14 conduct.

15 And this one I do want to play for you.
16 And I think, Agent Moon, do you need to play that for
17 me?

18 (Whereupon the video recording was played.)

19 MS. VIERBUCHEN: Exhibit 48. It's
20 November 22, 2010. Brandi Channon is walking in. We
21 know now that that has 19 empty ink cartridges in it,
22 and she's going to walk directly to the gentleman in
23 the left-hand corner.

24 And here comes her husband, a few
25 minutes -- seconds behind.

1 Ms. Channon is at one register. This is
2 where she's presenting a fake -- a fictitious account
3 for -- I believe it is High Speed account, and then
4 her husband disappears off the screen.

5 And you will see him coming back to the
6 bot- -- the register at the bottom right corner.

7 We know that these registers are
8 back-to-back. And we could -- we could tell --
9 Mr. Gardner told us that, but you could actually see
10 Ms. Channon reaching across from the bottom screen on
11 the right to the bottom screen on the left.

12 So now they are back-to-back. They are
13 pretending they do not know each other. They are
14 each presenting different cards, MaxPerks cards that
15 aren't in their names.

16 And Ms. Channon offered the High Speed
17 Stone account cards, and Mr. Channon is offering the
18 SLC card that's registered to a company allegedly in
19 Plano, Texas.

20 Oh, I'm sorry. The SLC Metro card was to a
21 company in Salt Lake City, Utah.

22 And then Agent Moon is going to stop this
23 for us in just a moment. She -- Ms. Channon just
24 walked right past her husband without a glance or a
25 word.

1 And pause it.

2 And now you can see her walking out the
3 door.

4 (Whereupon the video recording was played.)

5 MS. VIERBUCHEN: And if we continue this
6 video, we will see she goes on her way and her
7 husband follows thereafter.

8 This is how the government believes this is
9 proof of their unity of purpose, their acting
10 together and their intent to deceive. They're not
11 representing that they -- that they are even related.
12 They're not even representing giving a MaxPerks
13 account card with their real name on it.

14 The Channons are partners in crime.

15 And now we are going to go to Exhibit 51.

16 I'll remind you that Exhibit 51 was the
17 subject of Counts 3 -- excuse me -- 4 and 5.

18 This was just the next day in that other
19 Albuquerque OfficeMax store located on Wyoming
20 Avenue.

21 And, Agent Moon, could I have you start
22 that, please?

23 (Whereupon the video recording was played.)

24 MS. VIERBUCHEN: Now, this one we don't --
25 we see Ms. Channon coming in. Again, we know that

1 she's going to be recycling 20 ink cartridges.

2 And a minute later Mr. Channon comes in as
3 well.

4 Again, they're acting as if they don't know
5 each other. Ms. Channon comes up there. As we know
6 from the allegations in Count 4, she is presenting
7 the American Clay Products account registered in
8 Tempe, Arizona, and she is leaving.

9 And not a word to her husband, who is right
10 behind her.

11 He then presents yet another account
12 registered to Trighm Law account in Plano, Texas. He
13 recycles 20 ink cartridges.

14 I think these videos of the defendants show
15 consciousness of guilt. They know what they're doing
16 is wrong.

17 If they didn't believe what they were doing
18 was wrong, why are they giving different accounts,
19 MaxPerks accounts?

20 Why are they pretending they didn't know
21 each other?

22 Why are they leaving the store without
23 acknowledging each other?

24 It's because they know what they are doing
25 is wrong.

1 And now, this is Exhibit 66. This is a
2 video that was entered into evidence. It's a
3 February 9, 2001 [sic], video, and we are going to
4 show this third video evidence -- oops. I got a
5 little ahead of myself in my excitement.

6 Exhibit 66. Agent Moon, please play that
7 for us.

8 (Whereupon the video recording was played.)

9 MS. VIERBUCHEN: And now you'll recall in
10 this video we didn't -- we didn't see Ms. Channon
11 entering, but we will see that she's already in the
12 store.

13 Mr. Channon just walked in with a bag of
14 ink. If you would pause it for me.

15 I'd just remind you, do you see the legs to
16 the right of the cashier? That's Brandi Channon.

17 So as we know, in this -- in this video
18 what we are going to see, that they are at another
19 Albuquerque store and they are presenting yet
20 different MaxPerks accounts.

21 And I don't have those off the top of my
22 head, but I know if we go to Ejournals marked
23 Exhibits 67 and 68, we're going to know those other
24 two Group 1 accounts that they used, which were
25 different than the Group 1 accounts that they used in

1 the earlier two videos that we just saw.

2 (Whereupon the video recording was played.)

3 MS. VIERBUCHEN: So now, again pretending
4 they're not knowing each other and they're providing
5 fake identification in the form of yet a third
6 MaxPerks account.

7 And if you could hit -- oh, I can hit play.
8 It worked.

9 (Whereupon the video recording was played.)

10 MS. VIERBUCHEN: Did you see there Brandi
11 Channon, a familiar coat that we saw in Government's
12 Exhibit 48, that she was wearing. There she is. She
13 walks right by her husband, not a look or a word.
14 She knows what she's doing is wrong and so does her
15 husband.

16 Now after seeing these three videos, it
17 doesn't take much imagination, does it, to think what
18 must have happened on those trips when the Channons
19 went to California in May of 2010, or when the
20 Channons went to -- where was it, Texas -- in July of
21 2010, or when the Channons went to the northeast in
22 September of 2010.

23 Recall the testimony from Exhibit 45 --
24 from Mr. Gardner as to Exhibit 45. OfficeMax records
25 show that the Group 1 accounts or Group 1 and 2

1 accounts associated with the Channons were used to
2 make 52 -- were used at 52 stores in California from
3 May 18 to May 26 of 2010.

4 And we see how that would have worked,
5 right, with these videos? Just go into each store,
6 each giving different cards. You walk right out, you
7 hit the next store.

8 And so it doesn't take much imagination to
9 see how that actually could happen. It shows the
10 defendants' knowledge and intent, what they're doing
11 is wrong.

12 It shows that the defendants are conspiring
13 to defraud OfficeMax, and it shows that they are
14 working in concert to their mutual benefit to rip
15 OfficeMax off to the tune of \$100,000 so that they
16 can enjoy those illegal proceeds of their criminal
17 activities.

18 Again, I mentioned Government's Exhibit 43,
19 I mentioned the trip to Texas.

20 Recall the testimony -- you know you have
21 the flight records, right? Government's Exhibit 36,
22 I think it is. It's the Southwest business records
23 that confirm the flight activity to these areas at
24 the time these Group 1 and Group 2 accounts are being
25 used.

1 But again, it doesn't take much imagination
2 to see how the Channons flew out to Texas, hit a
3 group of stores in the metroplex area, a number of --
4 a total of 47 stores recycling ink, and over 1,500 in
5 ink recycling.

6 And then finally, it doesn't take much to
7 imagine the trip to the East Coast in September of
8 2010, where they hit 31 stores in six states.

9 And this time, what did they do? They
10 didn't recycle ink, they spent their rewards.

11 And so what you see here is the rewards
12 spent on Group 1 accounts totaled \$3, and the rewards
13 spent on this spending spree were -- for Group 2
14 accounts -- was for over \$5,000.

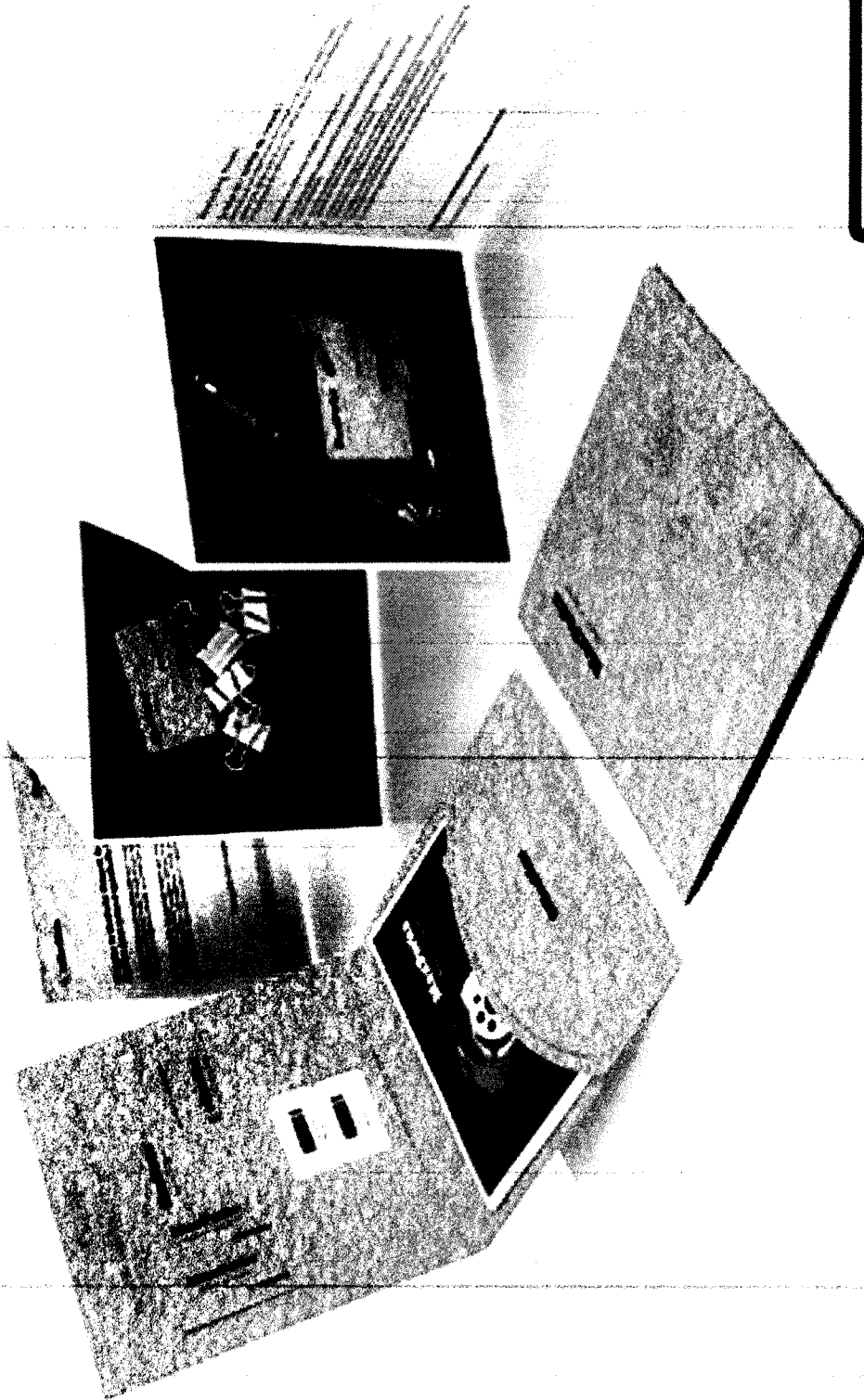
15 The defendants are guilty of Count 1.

16 So whether you call it OfficeMaxing or
17 whether you call it beating OfficeMax at their own
18 game, under the law, it's a crime.

19 THE COURT: All right. Thank you,
20 Ms. Vierbuchen.

21 It's about 10:00 -- almost 10:30.

22 We'll take a break at this time, so I
23 expect -- what I expect is, when we return to the
24 courtroom, the -- each defendant -- each defendant's
25 counsel will have an opportunity to make their



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1 Agent Moon, if you could call up
2 Government's Exhibit 27, which was previously
3 admitted.

4 BY MS. VIERBUCHEN:

5 Q. And, sir, last week do you recall testifying
6 concerning this exhibit?

7 A. Yes, I do.

8 Q. And do you recall testifying earlier that the
9 Group 1 and Group 2 accounts at issue in this case
10 claimed approximately \$1.9 million in online
11 adjustments?

12 A. Yes.

13 Q. And I believe that you had testified that,
14 assuming that the accounts were maxed out, and
15 because they were teechar accounts, that you
16 estimated reward cards that could be redeemed -- that
17 could be issued based on this amount would have been
18 over \$400,000.

19 Did I summarize that testimony correctly?

20 A. Yes, you did.

21 Q. Okay. What -- was over 400,000, in fact, in
22 reward card spending issued in this case?

23 A. No.

24 Q. Why not?

25 A. Because we identified the script, or the

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From: Boady, Michael
To: Messec, Paige (USANM)
Subject: FYI
Date: Monday, January 14, 2013 12:03:54 PM

Paige,

I received this email from Steven Gardner....

I am currently trying to pull some information prior to October of 2009. It may take some time but I agree with you if we can get it, it will help with the ink recycle piece. The reason I did not pull it sooner is because originally we were not focused on the ink recycle but rather the online adjustments, because this was where the major fraud attempt took place. Your observation about the ink recycling activity decreasing and almost going away during the TCBH event is spot on. My assumption was that Channon figured he did not need to continue with the ink recycle since this new scheme was going to net him about \$400K. Once we shut it down he then needed to go back to the old scheme. As for why he may have tapered off in 2011, I am not sure but it may have been due to the fact I was tracking him and pulling video pretty regularly. He may have gotten wind of that, which caused him to enlist other people as seen by the his girlfriend and other couple that you interviewed during the search of his residence. To answer the 1st question about if he was using an accomplice earlier in his scheme (2009) that is definitely possible but I don't have any video evidence to support either case. I only know that I can link his debit card to purchases on those accounts.

FBI ALBUQUERQUE
Special Agent Michael Boady



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Cha

1 I do see a few hands.

2 We'll start with Ms. Love.

3 PROSPECTIVE JUROR: Your Honor, do I need
4 to address you again about OfficeMax or the perks?

5 THE COURT: I have a -- I have a couple of
6 questions for you.

7 The attorneys may have additional questions
8 for you on this.

9 But I am wondering -- if I remember what
10 you said earlier correctly, you said you were a
11 teacher?

12 PROSPECTIVE JUROR: I am a teacher.

13 THE COURT: You are a teacher.

14 PROSPECTIVE JUROR: I am a teacher, and I
15 participate in the -- participated in the program.

16 I had an OfficeMax perks card. I don't
17 have it with me, but I did receive rewards for
18 shopping there, and a special discount for educators.

19 THE COURT: All right. Now, there are
20 times when people belong to a rewards program but
21 don't really use it.

22 Would you call yourself a regular user of
23 the rewards program?

24 PROSPECTIVE JUROR: Quite honestly,
25 Your Honor, they are very expensive, so I only used

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1 them when I couldn't get what I needed at Walmart.

2 THE COURT: Okay. All right.

3 So even though you didn't shop at OfficeMax
4 regularly, did you actually get any kind of discounts
5 or rewards from the OfficeMax perks?

6 PROSPECTIVE JUROR: I did receive discounts
7 on -- I did receive discounts, especially at the
8 beginning of the year, because they have a teacher
9 reward program at the beginning of the year where
10 they would give away, like, Post-its in the shape of
11 apples and stuff like that. I had -- I did receive
12 those things.

13 I didn't ever get anything -- any large
14 discount, other than I think it is like 5 percent on
15 ink cartridges.

16 THE COURT: And you did not do that?

17 PROSPECTIVE JUROR: I did get 5 percent off
18 of ink cartridges.

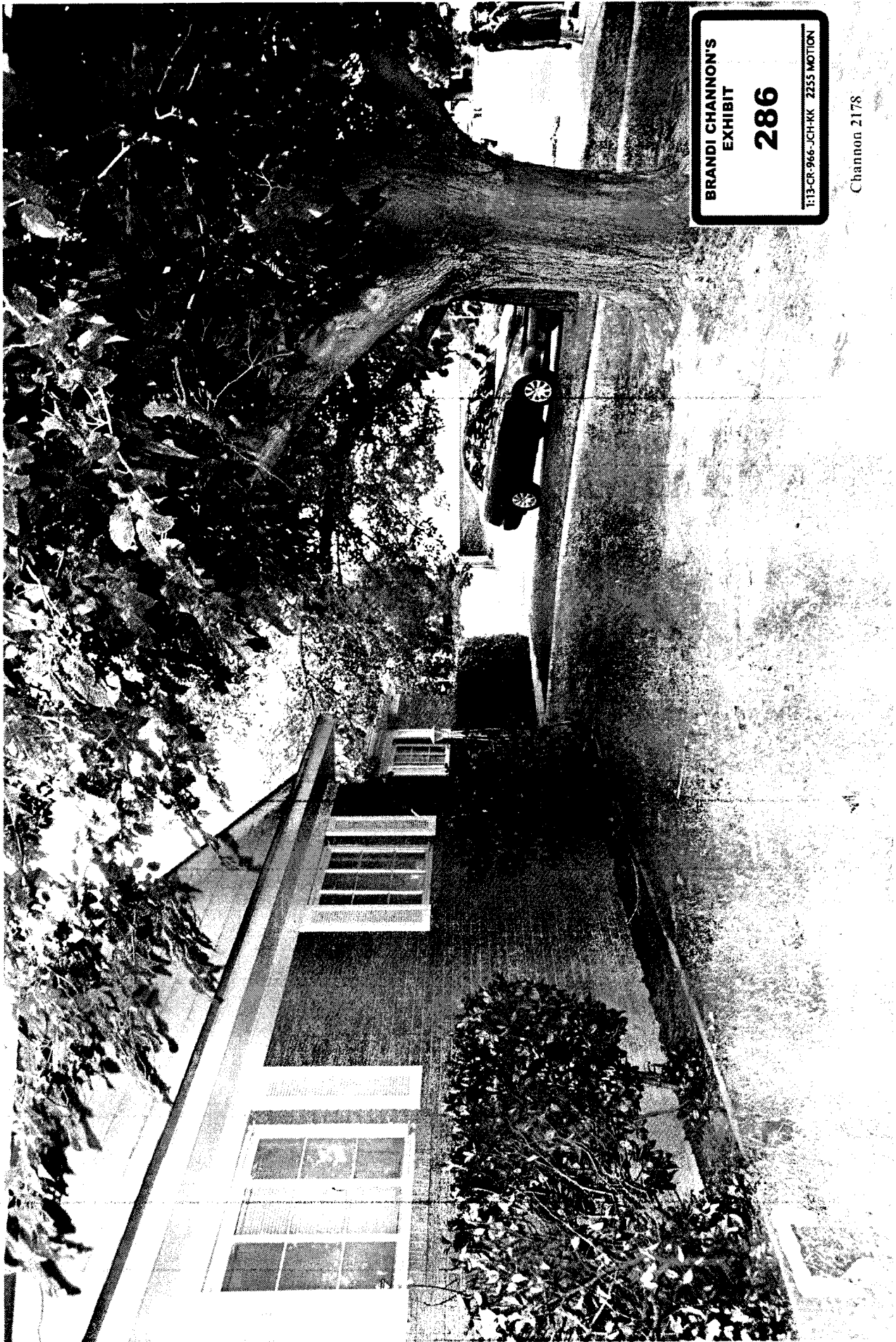
19 THE COURT: All right. You did.

20 PROSPECTIVE JUROR: I didn't get -- I never
21 purchased any furniture, I didn't purchase computers
22 there, nothing like that.

23 THE COURT: All right.

24 PROSPECTIVE JUROR: Just office supplies.

25 THE COURT: All right. So do you think



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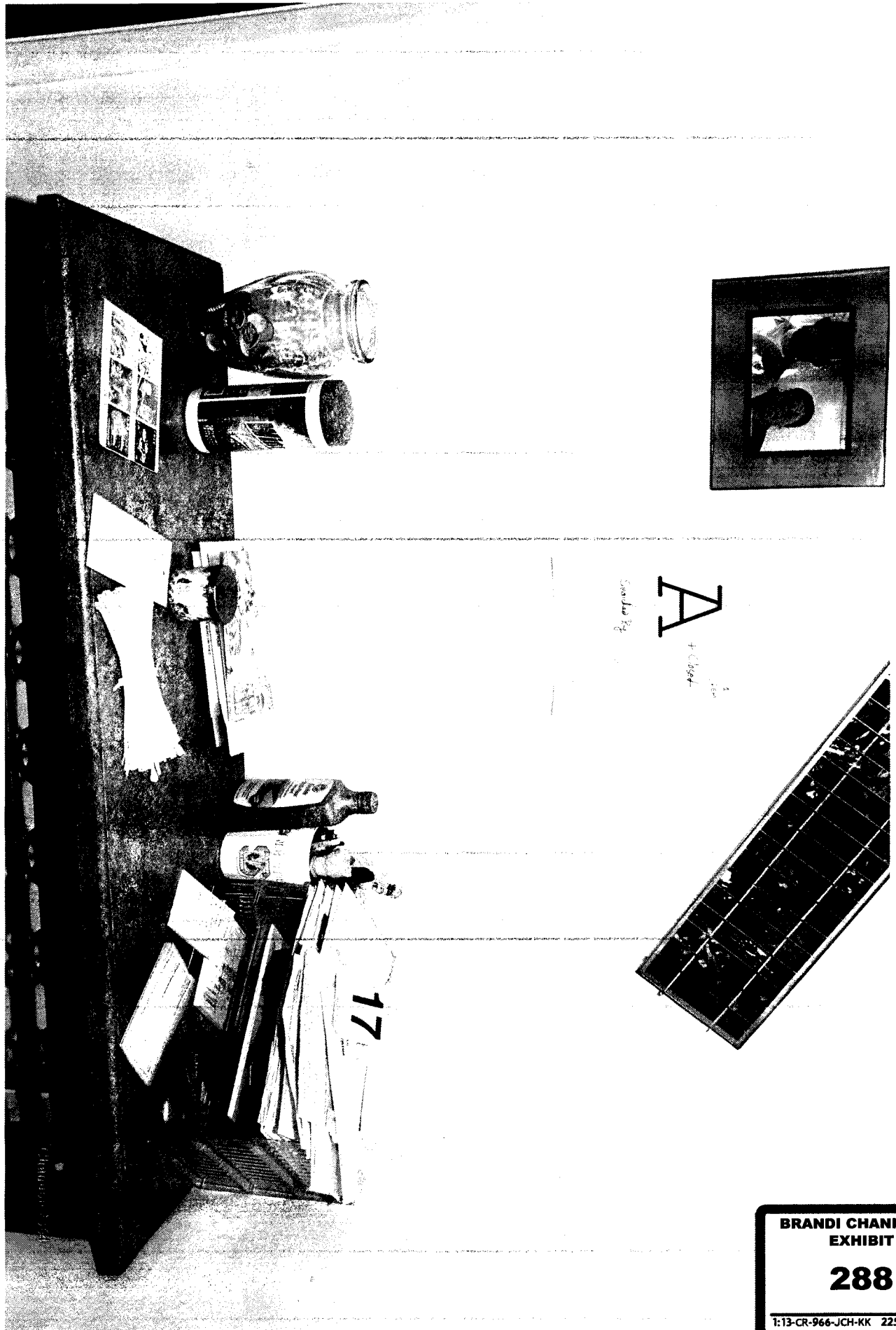
Channon 2178



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1 A. Yes.

2 Q. And were photos taken during the search of the
3 house?

4 A. Yes.

5 MS. KASTRIN: And if I may approach,
6 Your Honor?

7 THE COURT: You may.

8 BY MS. KASTRIN:

9 Q. I'm going to be handing you what has been
10 marked for identification purposes only as
11 Exhibit 149.

12 Could you please flip through those without
13 showing those to the jury?

14 A. (Witness complies.)

15 Q. When were these taken?

16 A. On June 28, 2011.

17 Q. Did you take them?

18 A. No. Our professional photographer on our team,
19 Tammy Peter, took the photographs that day.

20 Q. But looking at them, are you able to say that
21 they accurately reflect the way the home looked at
22 different stages of the day?

23 A. Yes.

24 MS. KASTRIN: I would move to admit
25 Government's Exhibit 149, which is a series of

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1 photographs.

2 THE COURT: How many photographs in that
3 exhibit?

4 MS. KASTRIN: So we removed some as part of
5 this. Can I count this, one second?

6 THE COURT: Sure.

7 MS. KASTRIN: 27, Your Honor.

8 MR. ROBERT: Your Honor, may I see the 27
9 of them? I'm looking at 29 here, and there are a
10 couple I have a question about.

11 MS. KASTRIN: Certainly, Your Honor. And I
12 would just note that these are just a smaller subset
13 of photos that were previously provided to the
14 defense.

15 THE COURT: All right.

16 Is there objection to Exhibit 149?

17 MR. ROBERT: Your Honor, there are 27
18 pieces to Exhibit 149, and I object to two pieces of
19 it.

20 THE COURT: All right.

21 MS. KASTRIN: Do you want us to approach?

22 MR. ROBERT: May we approach, Your Honor?

23 THE COURT: Yes, you may.

24 (Bench discussion:)

25 MR. ROBERT: This is a photograph of a

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1 bunch of personal documents including checks with
2 bank numbers and that sort of thing. I don't -- I
3 think that this -- again, the irrelevance of the
4 readable text and the potential of disclosing
5 personal information weighed against the relative
6 probative value of this would seem to militate
7 against admission of that particular one.

8 THE COURT: All right.

9 MS. KASTRIN: Your Honor, we have to
10 establish that this was the defendants' home.
11 Usually that is done through photos that show
12 personal items of mail that link their names to the
13 address, and that's exactly what this photo does.

14 If they want to stipulate that this was, in
15 fact, their address, then certainly we wouldn't need
16 to bring in a photo of that type.

17 MR. ROBERT: Okay. We'll do that.

18 THE COURT: You'll stipulate?

19 MR. ROBERT: We'll stipulate that that
20 house is their house.

21 MS. KASTRIN: You'll stipulate? Okay.

22 Then we're happy to remove that photo.

23 MR. ROBERT: And then this is the
24 photograph that we were talking about before the jury
25 came in. I just want to renew my objection to that.

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1 MS. KASTRIN: It's redacted on the screen
2 that will be shown to the jury.

3 THE COURT: So what's redacted?

4 MS. KASTRIN: I can show --

5 MR. ROBERT: I object to that.

6 THE COURT: Yes, that's the way I recall
7 it.

8 MS. KASTRIN: It essentially looks like the
9 photo that has the yellow Exhibit 19 on it. It still
10 shows the OfficeMax, it shows the date, it shows the
11 partial address. And then the contents of the letter
12 have been blacked out.

13 MR. ROBERT: And again, just to reiterate,
14 there's no reason that this couldn't be cropped to
15 show simply what the government seeks to show.

16 And for the purposes of the record, could
17 we mark this as 149A, just so that the --

18 MS. KASTRIN: The original unredacted?

19 MR. ROBERT: No, the redacted photograph.

20 THE COURT: Well, it has a Bates number on
21 there. You want it marked as an exhibit as well?

22 MS. KASTRIN: The Bates number is Channon
23 2377.

24 MR. ROBERT: Will that Bates number be in
25 the redacted document?

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1 MS. KASTRIN: It is.

2 MR. ROBERT: Okay.

3 MS. KASTRIN: It shows up on the bottom.

4 And I will just need, assuming that -- I

5 will need one second to remove this from the

6 electronic version that we're showing to the jury, or

7 I can do this with the Elmo, if that would be faster.

8 THE COURT: I have no idea what would be

9 faster.

10 And you renewed your objection. Your

11 objection is overruled.

12 I do think that its probative value -- that

13 the probative value of Channon 2377 outweighs any

14 danger of unfair prejudice.

15 (End of bench conference.)

16 MS. KASTRIN: And so, Your Honor, I don't

17 know if it was stated on the record. But as amended,

18 we move to admit Government's Exhibit 149.

19 THE COURT: And so there is one fewer

20 photograph in that --

21 MS. KASTRIN: Than we initially stated. So

22 I think it's now 26 photographs.

23 THE COURT: Okay. So Exhibit 149, 26

24 photographs, is admitted.

25 MS. KASTRIN: I would simply like to note,

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1 in the removal of one exhibit, that a stipulation has
2 been reached.

3 THE COURT: Okay. Do you want to state --

4 MS. KASTRIN: Yes. And that the
5 stipulation is the home that was searched on June 28,
6 2011, is the home of the defendants Matthew and
7 Brandi Channon.

8 THE COURT: All right.

9 MR. ROBERT: That is correct, Your Honor.

10 MR. HOTCHKISS: That is correct,
11 Your Honor.

12 THE COURT: So the jury will accept the
13 fact as proven that the search warrant was executed
14 at the home of the defendants in this case, Matthew
15 and Brandi Channon.

16 MS. KASTRIN: So if we could pull up photo
17 number -- the first photo, Bates Number 2175 of
18 Exhibit 149.

19 And if this could be published to the jury.

20 BY MS. KASTRIN:

21 Q. Okay. And so I want to show you this first
22 photograph.

23 If we could go to the second photograph,
24 which is 2178.

25 And then the next photograph, which is

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1 2179.

2 Ms. Parker, what do those photos reflect?

3 A. Those are the exterior -- some exterior shots
4 of the house at 7100 Gladden Avenue.

5 Q. Okay. And if we could move on to the next
6 photo, which is Bates-labeled 2364.

7 What does this photograph depict?

8 A. It is a photograph of the room that we
9 labeled A. And it's a picture of the desk and our
10 Evidence Item Number 17.

11 Q. Okay. And is there a photo on the wall?

12 A. Yes.

13 Q. And now, moving on to the next photo, Photo 5.

14 And that's Bates Number 2366 -- oh, I'm
15 sorry. That is --

16 Now moving on to this one, and this is
17 2262, I believe.

18 Do you know what this photo represents?

19 A. A photograph of the office in that home.

20 Q. Okay. And moving on to the next photo, which
21 is 2266.

22 And what is this photo of?

23 A. It's one of the two desks with computers in the
24 office.

25 Q. Okay. And then the next photo, 2277, on the



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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 13-966 JH

MATTHEW CHANNON and
BRANDI CHANNON,

Defendants.

**ORDER CONTINUING TRIAL SETTING
AND EXTENDING THE MOTIONS DEADLINE
AND DESIGNATING CASE COMPLEX**

THIS MATTER is before the Court on Defendants' *Joint Unopposed Motion to Continue The May 2, 2013 Motions Deadline and July 22, 2013 Trial and to Declare this Case Complex [Doc. 25]*, filed June 12, 2013. The Court, being fully briefed on the premises, finds that the motion is well-taken and should be granted. Specifically, the Court finds that defense counsel were recently appointed on May 24, 2013 (Docs. 23 and 24) to represent the defendants, and have diligently begun to prepare for trial by conferring between themselves, meeting their clients, reviewing approximately 4000 pages of discovery disclosed by the Government, identifying further discovery to request, identifying the legal and factual issues in this case, and beginning the defense investigation. The Court further finds that defense counsel will require additional time to identify and retain experts, prepare motions, research and prepare a defense, receive, review, and request any further necessary discovery, conduct negotiations with the

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Government about potential resolution without trial in this case, and prepare for trial.

The Court also finds that this case is complex pursuant to 18 U.S.C. § 3161(h)(B)(ii), and that the defendants will, therefore, require more than seventy (70) days to prepare for trial. Furthermore, the Court notes that the Government has no opposition to the Defendants's motion; therefore, the Court finds that the Defendants' joint unopposed motion to continue trial setting, extend the motion deadline and to declare this case complex is well taken.

IT IS THEREFORE ORDERED that the Defendants' *Joint Unopposed Motion to Continue The May 2, 2013 Motions Deadline and July 22, 2013 Trial and to Declare this Case Complex [Doc. 25]*, is **granted** and the trial set before The Honorable Judith C.

Herrera on July 22, 2013 is **VACATED** and will be reset for **October 21, 2013 at 9:00 A.M. before The Honorable Eric F. Melgren, United States District Judge, "Rio Grande" Courtroom, 3rd Floor, Albuquerque, New Mexico.** The period of time from the entry of this order until the new trial date shall be excluded, pursuant to 18 U.S.C. § 3161 (h)(7)(A), from the time limitations set forth within 18 U.S.C. § 3161(c)(1).

Furthermore, the Court finds that the defendants set forth sufficient reasons in their joint motion to continue trial [Doc. 25] to satisfy *United States v. Toombs*, 574 F.3d 1262 (10th Cir.2009).

IT IS FURTHER ORDERED that the May 2, 2013 motions deadline is extended to **September 16, 2013.**

IT IS FURTHER ORDERED that this case is complex pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii), and all periods of delay from the entry of this Order until the trial of this case shall be excluded pursuant to 18 U.S.C. §§3161(h)(7)(A) and 3161(h)(7)(B)(ii)

in computing the time within which the trial of this case must commence under the Speedy Trial Act.

IT IS FURTHER ORDERED that the parties shall meet and confer and submit a proposed scheduling order to the Court no later than **August 16, 2013**.

IT IS FURTHER ORDERED that after weighing the best interests of the public and of the Defendants with the interests of justice, the Court finds that granting the continuance will strike a proper balance between the ends of justice and the best interests of the public and of the Defendants for the reasons stated in the Defendants' Joint Unopposed Motion to Continue the May 2, 2013 motions deadline and the July 22, 2013 trial date, and to declare this case complex (Doc. 25), which outweighs the defendants' and public's interests in a speedy trial pursuant to 18 U.S.C. §§3161(h)(7)(A) .


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 13-CR-966 JCH

MATTHEW CHANNON and
BRANDI CHANNON,

Defendants.

**ORDER GRANTING DEFENDANTS' JOINT UNOPPOSED MOTION TO CONTINUE THE
PENDING DEADLINES IN THE COURT'S SCHEDULING ORDER AND AMENDED SCHEDULING
ORDER**

1. THIS MATTER having come before the court on the Defendants' Joint Unopposed Motion to Continue the Pending Deadlines in the Court's Scheduling Order (Doc. 42), and the Court being fully advised on the premises, finds that the motion is well-taken and should be granted. Specifically, the Court finds that the parties are continuing to communicate about the disclosure of the computer data still in FBI custody, the defendants need to seek funds for the purchase of a storage device and subsequent retention of a computer expert to review the computers. Moreover, the defendants need additional time to review the large amount of documents obtained from the execution of the search warrants of the defendants' residence which was recently scanned, photographed, and provided to the defense. The defendants' need for the continuance outweighs the public's and the defendants' interest in a speedy trial. 18 U.S.C. § 3161(h) and *United States v. Toombs*, 574 F.3d 1262 (10th Cir. 2009).

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IT IS THEREFORE ORDERED that the Defendants' Joint Unopposed Motion to Continue the Pending Deadlines in the Court's Scheduling Order (Doc. 42) is granted.

The deadlines in the Court's Scheduling Order (Doc. 41), beginning with the deadlines set for October 28, 2013, are continued to the following dates:

January 27, 2014	Defendants to provide all reciprocal discovery under Rule 16(b) Parties to file pretrial motions under Rule 12(b)(3);
February 3, 2014	Government disclosure of expert witnesses and reports;
February 10, 2014	Responses to pretrial motions
February 17, 2014	Defendants' objections to the government's experts
February 24, 2014	Replies to pretrial motions
March 3, 2014	Defendants' disclosure of expert witnesses and reports
March 17, 2014	Motions in limine
March 31, 2014	Responses to Motions in Limine
April 7, 2014	Jury instructions Exhibit lists Witness lists and Jencks disclosures
April 11, 2014	Replies to motions in limine

April 14, 2014

Government objections to defense experts

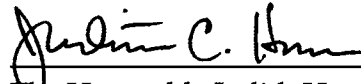
Voir dire

Deadline to file objections to jury instructions, exhibit lists,
witness lists

May 19, 2014 @ 9:00 a.m. Jury selection and trial

IT IS FURTHER ORDERED that the parties have a continuing duty to disclose any additional witness material and evidence if discovered, and that if good cause exists for not complying with the above-designed schedule the Court be so advised.

Entered this 14th day of November, 2013


The Honorable Judith Herrera
United States District Court Judge

Submitted by:

/s
Amy Sirignano, Esq.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 5

The defendant is charged in count 1 with a violation of 18 U.S.C. section 1349.

This law makes it a crime to conspire to commit an offense against the United States.

To find the defendant guilty of this crime you must be convinced that the government has proved each of the following beyond a reasonable doubt:

First, the defendant agreed with at least one other person to violate the law.

Second, one of the conspirators engaged in at least one overt act furthering the conspiracy's objective.

Third, the defendant knew the essential objective of the conspiracy.

Fourth, the defendant knowingly and voluntarily participated.

Fifth, there was interdependence among the members of the conspiracy; that is, the members, in some way or manner, intended to act together for their shared mutual benefit within the scope of the conspiracy charged.

A conspiracy is an agreement between two or more persons to accomplish an unlawful purpose. It is a kind of "partnership in criminal purposes" in which each member becomes the agent or partner of every other member.

The evidence need not show that the members entered into an express

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or formal agreement. Nor does the law require proof that the members agreed on all the details. But the evidence must show that the members of the alleged conspiracy came to a mutual understanding to try to accomplish a common and unlawful plan.

If you are convinced that the charged conspiracy existed, then you must next determine whether the defendant was a member of that conspiracy, that is, whether the defendant knew at least the essential goals of the conspiracy and voluntarily chose to be part of it. The law does not require proof that the defendant knew all the other members of the conspiracy or knew all the details about how activities were to be carried out. A person may belong to a conspiracy for a brief period of time or play a minor role. On the other hand, proof is not sufficient if it merely shows that the defendant knew about the existence of the conspiracy or was associated with the members of the conspiracy. Rather, the evidence must show the defendant knowingly joined the conspiracy with the intent to advance its purposes.

You are also required to find that interdependence existed among the members of the conspiracy. This means that the members intended to act for their shared mutual benefit. To satisfy this element, you must conclude that the defendant participated in a shared criminal purpose and that his actions constituted an essential and integral step toward the realization of that purpose.

10th Circuit Pattern Jury Instruction 2.19 modified by
10th Circuit Uniform Jury Instruction 2.87.

Defendants Matthew Channon and Brandi Channon are charged in Count 1 with a violation of 18 U.S.C. section 1349.

This law makes it a crime to conspire to commit wire fraud.

To find any defendant guilty of this crime you must be convinced that the government has proved each of the following beyond a reasonable doubt:

First, the defendant agreed with at least one other person to violate the law;

Second, the defendant knew the essential objective of the conspiracy;

Third, the defendant knowingly and voluntarily participated;

Fourth, the defendant acted with specific intent to obtain money or property by means of false or fraudulent pretenses, representations or promises; and

Fifth, there was interdependence among the members of the conspiracy; that is, the members, in some way or manner, intended to act together for their shared mutual benefit within the scope of the conspiracy charged.

A conspiracy is an agreement between two or more persons to accomplish an unlawful purpose. It is a kind of “partnership in criminal purposes” in which each member becomes the agent or partner of every other member.

The evidence need not show that the members entered into an express or formal agreement. Nor does the law require proof that the members agreed on all the details. But the evidence must show that the members of the alleged conspiracy came to a mutual understanding to try to accomplish a common and unlawful plan.

If you are convinced that the charged conspiracy existed, then you must next determine whether the defendant was a member of that conspiracy, that is, whether the defendant knew at least the essential goals of the conspiracy and voluntarily chose to be part of it. The law does



not require proof that the defendant knew all the other members of the conspiracy or knew all the details about how activities were to be carried out. A person may belong to a conspiracy for a brief period of time or play a minor role. On the other hand, proof is not sufficient if it merely shows that the defendant knew about the existence of the conspiracy or was associated with members of the conspiracy. Rather, the evidence must show the defendant knowingly joined the conspiracy with the intent to advance its purposes.

You are also required to find that interdependence existed among the members of the conspiracy. This means that the members intended to act for their shared mutual benefit. To satisfy this element, you must conclude that the defendant participated in a shared criminal purpose and that his or her actions constituted an essential and integral step toward the realization of that purpose.

Re: plea discussions

From **mchannon** <mchannon@hushmail.com>
To **Marc Robert** <marc_robert@fd.org>
Cc **John Robbenhaar** <john_robbenhaar@fd.org>
Sent **Monday, October 19, 2015 at 9:04 AM**
Encrypted No
Signed No

Marc,

Hope your marathon experience went well.

Marc & John,

Thanks for forwarding the information along.

Pardon my skepticism, but this offer looks less like a "fire sale" and more like a "going out of business sale" at the furniture store that reopens under a different name every month. I would like to know if that is how you guys see it as well. Maybe it's just an opening volley.

It looks like it's not an 11c1C and it also looks like a bunch of the horror stories I've read online where the poor sap signs on the dotted line and the judge gives him 20 years.

Assuming this is a nonseverable plea offer, Brandi would probably not sign off on it no matter how much even I begged her to, so it's not a decision I can even wrestle over.

Let me know when would be good for a meeting (maybe just the FD office and me). Sooner would probably be better. I'm open for whenever.

Thanks!
Matt Channon

Sent using Hushmail

On October 18, 2015 at 1:14 PM, "Marc Robert" <Marc_Robert@fd.org> wrote:

Matt:

I talked with P Messec on Friday. I proposed a plea agreement including the parameters that you had described in your recent e-mail. She responded with the following proposal. She said that she would discuss a plea agreement with her superiors after we had reached an informal agreement. She has set a deadline of this coming Wednesday, October 21, to reach an agreement. The deadline is based on the hearing on the prosecutors' motion to exclude our expert, set for October 28.

For you: a sentencing cap of 18 months, leaving us free to argue for a variance of whatever magnitude the judge might accept. Of course, we would argue for a probation sentence.

Restitution in an amount to be determined by the judge. The prosecutors claim that the amount is \$105,000, and we believe that, with J McHard's

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help, the number will likely be lower. The amended sentencing guidelines make \$95k a significant threshold.

No forfeiture. If there is no agreement, the financial damage could include forfeiture and restitution, imposing a double burden on you.

Supervised release (if any time is imposed) or probation of a term to be determined by the judge.

A mandatory special penalty assessment of \$100 for each count included in the plea agreement (probably one count)

For Brandi: an agreement for no prison time
a misdemeanor, if one can be found that fits the facts.

Restitution jointly and severally with you

No forfeiture

Probation

Special penalty assessment

Let us know what you think. Thanks.

Marc H. Robert
Assistant Federal Public Defender
Albuquerque, New Mexico
505.346.2489